

**Office of Zoning and Administrative Hearings  
Stella B. Werner Council Office Building  
100 Maryland Avenue, Room 200  
Rockville, Maryland 20850  
Telephone: (240) 777-6660; Fax: (240) 777-6665**

Todd D. Brown,  
Yum Yu Cheng,  
*Counsel for Petitioner*

\* \* \* \* \*

Richard Tucker Ewing,  
Stephen L. Parker,  
Phil Perrine,  
Stephen Vincent Goley,  
Stephen Preston Tawes,  
Carl Craig Hedberg,  
Ryland L. Mitchell, III,  
*Petitioner's Witnesses.*

\* \* \* \* \*

Before LUTZ ALEXANDER PRAGER, *Hearing Examiner*.

## TABLE OF CONTENTS

I. INTRODUCTION.....	2
II. THE PROPERTY, ITS NEIGHBORHOOD, AND CURRENT USES.....	4
III. PROPOSED CHANGES TO CAMPUS AND ACTIVITIES.....	11
<i>A. Phase I.....</i>	<i>15</i>
<i>B. Phase II.....</i>	<i>21</i>
<i>C. Phase III.....</i>	<i>26</i>
<i>D. Phase IV.....</i>	<i>28</i>
IV. ENVIRONMENTAL IMPACT.....	32
V. TRAFFIC IMPACT.....	35
VI. MASTER PLAN.....	36

VII. PLANNING BOARD AND PLANNING DEPARTMENT RECOMMENDATIONS. ....	37
VIII. STATEMENT OF PROCEEDINGS. ....	38
IX. SUMMARY OF TESTIMONY. ....	39
X. FINDINGS OF FACT AND ANALYSIS. ....	40
A. SUMMARY. ....	40
B. SCOPE OF REVIEW IN SPECIAL EXCEPTION MODIFICATION PROCEEDINGS. ....	42
C. GENERAL ZONING STANDARDS. ....	42
D. SPECIFIC ZONING STANDARDS. ....	61
XI. RECOMMENDATIONS. ....	67

## I. INTRODUCTION.

Over the next decade Norwood School wants to build four new buildings, grow its student enrollment by 7% and its summer camp enrollment by 52%, increase its staff, extend its hours, and otherwise make more intensive use of its campus. More intensive use includes four large-scale non-school-related “community” events and smaller after-hours auxiliary “community enrichment programs.”

Norwood proposes to grow in four distinct phases. The school’s ability to execute its plans, and the speed at which it proceeds, will depend on whether it can raise enough money to fund the last three phases. As Norwood’s head of school, Richard Ewing, explained, “we approached this plan as a decade long plan.” \* \* \* This is meant to be a long range plan.” T. 7/20 at 38. Except for phase I, which can be implemented as soon as the Board gives special exception approval, implementation of the rest of Norwood’s plan is dependent on fundraising: “it’s partly dependent upon our community’s interest, willingness to support this financially. \* \* \* We would want to proceed with this in an expeditious fashion. But, it does require us to do this fundraising.” *Id.* at 35, 36 (Ewing).

Norwood’s 38.1-acre campus is large enough to accommodate the new buildings and population growth. If completed, building coverage will take up 6.9% of available space, far less than 25% permitted by Zoning Ordinance. Ex. 37 at 23; T. 7/20 at 142. When student and camper populations reach their maximum, campus density will be between 15+ and 23+ children per acre, well fewer than the 87 per acre density that triggers heightened scrutiny under § 59-G-2.19(c) of the Zoning Ordinance. Ex. 37 at 23.

Still, Norwood’s petition raises several zoning issues, notably peak-hour traffic and potential neighborhood disruption from activities that are not core functions of a private educational institution.

Both the Planning Board and Planning Department recommend approval of the school application to modify its current special exception authorization. Ex. 35(b), 37. The Board recommends that approval be subject to nineteen conditions, all of which the school has accepted. Ex. 35(c); T. 7/20 at 27, 30 (Ewing). The Board also recommends that the hearing examiner develop an evidentiary record so as to place “reasonable limits” on the number of school-related activities that “are typically held outside normal school academic year operations, including school dances, placement fairs, picnics,” and the like. Ex. 35(b) at 1.

Among the Planning Board’s chief concerns is the impact of intensification of traffic spurred by population growth. At least four of the Board’s conditions address traffic. The Board accepted Norwood’s proposal that the number of peak-hour trips to and from the school be frozen at the current level. Ex. 35(c) at 3, #13. The Planning Board recommends that no phase of development be permitted to proceed until this Board finds that traffic has consistently been at or below the trip cap during each preceding phase. *Id.* at 1, # 5; 2, #8. To assist this Board, the Planning Department is to establish a system of traffic monitoring to determine whether traffic remains at or below the cap. *Id.* at 3, # 13. The Planning Board recommends that the school be compelled to establish a busing program but leaves the nature of that program ambiguous. *Id.* at 2, # 11 (“[t]he bussing [*sic*] service must be a mandatory service provided to students \* \* \*”).

No one appeared in the hearings to oppose Norwood’s petition although the West Montgomery County Citizens Association had earlier submitted a letter of opposition to the Planning Board. Ex. 22. That letter expressed concern about increased traffic and possible impact of the school’s proposed “community” events on *that* community. At the association’s request the hearing in this case was postponed for three weeks. Ex. 31. During that time, the Planning Board reviewed Norwood’s plan and modified several conditions recommended by the Planning Department. It strengthened traffic restrictions, and accepted the Department’s recommendations to reduce the permissible number of large-scale events from seven to four annually. A reasonable inference from the association’s absence from the hearing before me is that the Planning Board’s actions satisfied its concerns.

In section XI of this report I, too, recommend approval of the proposed modifications to the special exception but modify, add to, and reorganize conditions recommended by the planning agencies.

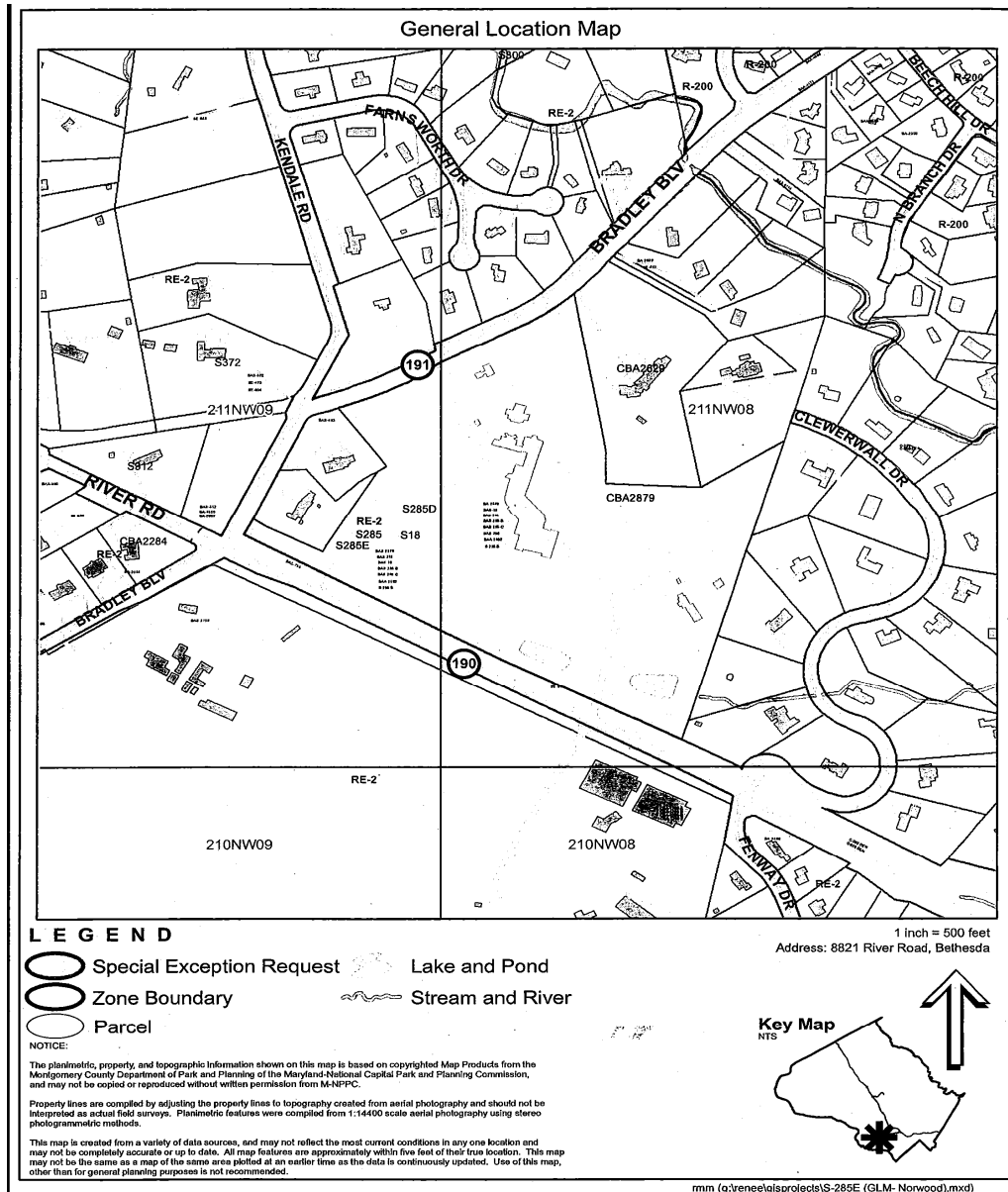
## II. THE PROPERTY, ITS NEIGHBORHOOD, AND CURRENT USES.

Norwood's irregularly-shaped 38.1-acre campus is located along both River Road (Md. 190) and Bradley Boulevard (Md. 191). The property is known as parcel B, "Bradley Ridge," recorded as plat 20865. Ex. 1(a); 25(c); 37 at 10. Its street address is 8821 River Road. *Id.* Its zoning classification is RE-2, as is that of the nine abutting residential properties. Street frontage is 1840 feet along River Road and 1070 feet along Bradley Boulevard. Ex. 37 at 11. Congressional Country Club faces the school's entire frontage along River Road. The club, too, is located in an RE-2 zone and operates with special exception approval. The Norwood site is governed by the Potomac Subregion Master Plan. *Id.*; see ex. 7.

Access to the campus is by way of two River Road and two Bradley Boulevard driveways. One of the River Road entrances is directly across the road from the entrance to Congressional Country Club and is regulated by a traffic signal. Ex. 25(aaa). Except for a Bradley Boulevard driveway that leads only to a school softball field (ex. 25(aaa)), the driveways are interconnected. Internal circulation is depicted on an exhibit reproduced later in this report. Walkways of varying widths parallel both road frontages. *Id.* The campus is described as varying in elevation from 206' to 305'. Ex. 16 at 3; see ex. 25(ss) (cross-sections). Drainage from a high-point near the center of the campus flows toward River Road and toward Bradley Boulevard. Ex. 16 at 3. The campus location is shown in the map on page 5 (ex. 37 at \*1)<sup>1</sup>.

---

<sup>1</sup> "\*" refers to pagination of attachments to the Planning Department report.



The Planning Department defines the neighborhood as an irregular rhombus bordered by Congressional Parkway to the west, Cabin John Creek to the north and east, and Persimmon Tree Road and the country club to the south and east. *Id.*; see ex. 37 at 11. It is delineated in yellow on the photograph on page 6.





The neighborhood definition needs adjustment to the east, to both sides of Fenway Road and Fenway Drive in order to avoid zoning gerrymandering. The boundary lines used in the Department report depicted were apparently used for Norwood's special exception application in S-285-C and were probably based on the area drawn by Norwood's land-planning expert, Philip Perrine. See T. 7/20 at 162.

Mr. Perrine testified that "the aerial I had included, that I was going to use included that residential [Fenway] area \* \* \*. It didn't strike me til[l] now that it hadn't been included." *Id.* He said that the houses east the country club and south of River Road have the same access point to that road as those to the north. *Id.* at 161. In addition, although not a subject of testimony, it is plain that the Fenway area is closer to Norwood than many of the properties near Congressional Parkway.

The change in boundary of the neighborhood does not require a change in analysis of Norwood's current application. See *id.* at 161. The expanded neighborhood is shown in the photograph on page 8.

The neighborhood, as defined by the Department, contains six special exception uses: Congressional Country Club, Connelly School of the Holy Child, a dentist's office, a riding stable, an accessory apartment and, of course, Norwood. Ex. 37 at 11. Connelly School, the next largest special exception use in the defined neighborhood, after Norwood and Congressional Country Club, is located along Bradley Boulevard about a half-mile southwest of the Bradley Boulevard-River Road intersection. Mr. Ewing estimated that Connelly has about 290 students. T. 7/20 at 83-84. Its school day probably begins at the same time as Norwood's but Connelly may discharge students later. *Id.* The neighborhood, redefined as I suggest, contains no additional special exception uses. See ex. 46(h).





Norwood was first granted approval in 1970 to operate a school along River Road for 150 students in kindergarten through 4<sup>th</sup> grade on what was then an 8½-acre campus. CBA-2879; see ex. 14 at 1. Over the past forty years the campus expanded to its present size and this Board has issued special exception modifications eight times, including one administratively. S-18, S-285, S-285-A through S-185-D. The Board opinions are collected in ex. 14. The Planning Department report summarizes them, ex.37 at 6-7.

Just as the campus has grown, so has the number of permanent improvements. There are now six mixed-use buildings on site serving the usual school space needs: classrooms, science and computer laboratories, school library, music and art rooms, gymnasium, cafeterias, and faculty and administrative offices. Ex. 37 at 5. In addition, the campus contains two single-family residences. One, near the eastern property line, is used as the home for the head of school and his family. See ex. 44(f), gridlines D-E, 9-10. The other, near the Bradley Boulevard entrance, has been home to the lower school principal but will become the residence of a resident manger and also be used for storage, offices, or classes. Ex. 25(a) at 9.

Total building coverage now is 3.6% of available space with all impervious surfaces occupying 17% of the campus, about 6.5 acres. Ex. 44(a). Norwood's macadam parking lots provide spaces for 207 cars dispersed over five lots (108, 67, 15, 9, 8 spaces, respectively). *Id.* There is also a hard-surface play area with two basketball backboards and nets.

Under current special exception authority Norwood is permitted a student population of 560 students in kindergarten through 8<sup>th</sup> grade. Ex. 25(d). Its summer camp program has an identical population ceiling. *Id.* Norwood also runs a small day-care center for up to twelve children, primarily – but not exclusively – serving school employees. The school year runs from about mid-August to about mid-June; the summer camp operates from mid-June to mid-August. Ex. 25(d).

The ceiling on faculty and staff is 120 full-time employees but there have always been more adults on site. See ex. 25(d). In 2009-2010 Norwood employed as many as 145 staff, counting part-time employees and independent contractors. The school explained the seeming disparity between its authorized limit and its actual adult population (*id.*, n. 4):

The [Board's] opinion [in S-285-C] did not address part-time employees or independent contractors. The school currently employs 116 faculty/staff, including 93 full-time employees, 14 part-time employees

and 9 hourly employees. If independent contractors are also counted (even if they are only on campus once per week or a limited number of hours per day), the current maximum number of existing compensated adults on-site at one time is 145 during the school year and 135 during the summer.

As part of its application, Norwood proposes adult population caps that include part-time employees and contractors. Ex. 25(a) at 3; ex. 25(d) n. 2. Among the adults to be counted are eight to twelve master-degree candidates. They are part of a Mid-Atlantic Teacher Institute program (MATI) established in 2007 by agreement between Norwood and George Washington University. Ex. 25(a) at 6 n. 3. The program has never before been presented to this Board for approval.

Norwood does not intend to count adults who are sporadically on campus but who are neither staff nor contractors. These include volunteers, visiting coaches, parents, and people attending school events. Ex. 25(d) n. 2.

Only about five of the 540 students enrolled in 2009-2010 used public transportation. T. 7/20 at 42 (Ewing). (The campus is served by the Metrobus T-2 and the Ride-On 36 lines. T. 7/21 at 43-44 (Hedberg)). Almost all students arrive by private car; a few use carpools. T. 7/20 at 41-42 (Ewing).

Since 2009, the school owns two fourteen-passenger buses, plying two routes, carrying 28 students daily. *Id.* at 39-40. Norwood expects to add another bus of similar size in the current school year. *Id.* If so, Norwood will be in the position of providing transportation for about 7½% of its maximum authorized student population.

Morning arrivals at the school are concentrated because most classes begin at 8:15 a.m. Ex. 25(yy) at 5; see T. 7/20 at 33-34 (Ewing). Afternoon departures are more staggered. Primary school classes are dismissed at 2:30, middle school classes at 3:30, 7<sup>th</sup> and 8<sup>th</sup> grades at 4:15. *Id.* On Fridays, classes end one to two hours earlier for each grade. *Id.* Faculty and staff departures are also staggered. Some teachers leave about an hour after the end of their classes. T. 7/20 at 70 (Ewing). Non-teaching staff, such as contract janitors, may arrive and leave early. *Id.* After-care and study hall end at 6 p.m. Ex. 25(yy) at 5.

The summer camp has a less rigorous schedule for both participants and staff, “[s]o we can stagger arrivals, stagger programs.” T. 7/20 at 46 (Ewing).

Typically, camp runs from 9 a.m. to 3 or 4 p.m. *Id.* at 47, 48. There are some half-day programs. *Id.*

Under current special exception authority, school activities are allowed to operate from 7:30 in the morning until 10 at night. Ex. 25(a) at 5.

Norwood conducts a number of extra-curricular activities annually, some of which include parents, grandparents, and others; Norwood calls these “related activities.” It typically holds two Friday-evening student dances. T. 7/20 at 56 (Ewing). The school conducts an annual placement fair, usually on a weekday night in September. *Id.* at 57. It conducts an annual daytime book fair in the spring, lasting a school-week, that parents are free to attend. *Id.* at 60. Mr. Ewing hosts breakfasts for “new parents” at his home throughout the year in groups of twelve to 24, starting at about 8 a.m. *Id.* at 57-58.

As many as ninety parents participate in parent socials in the fall, one for every two classes, starting at about 6:30 p.m. and lasting until about 9:30. *Id.* at 58. A middle school athletic banquet – “a large event” – occurs annually in Norwood's athletic center. *Id.* at 58-59. Another large event, drawing between 300 and 400 people, is a “silent auction benefit,” running from about 6:30 to 11 p.m. (an hour beyond Norwood's current curfew). *Id.* at 61-62. The school also conducts an annual multicultural fair, usually on a Friday afternoon. *Id.* at 62. The fair has thirty or more booths manned by sixty to eighty parents. *Id.*

In addition, Norwood hosts two parents' visiting days and one grandparent's visiting day annually. *Id.* at 78. On those days, the number of cars on campus exceeds the number of paved parking spaces. *Id.*

### **III. PROPOSED CHANGES TO CAMPUS AND ACTIVITIES.**

Over four phases of development, extending a decade or more, Norwood proposes increasing its student population from 560 to 600, its summer camp participants from 560 to 850, its school staff from 145 to 200 during the academic year and from 135 to 216 during the summer camp season. Norwood intends to purchase additional school buses to transport students and campers but has no present intention to mandate their use.

Norwood wants to extend the school day by an hour in the evening, to 11:00, and half an hour in the morning to 7:00. When a new swimming pool building is completed, it wants patrons – some of whom seemingly will have no other association with the school – to be able to use it as early 5:00 a.m.

Norwood also wants to host four large revenue-producing “community” events annually (down from the seven it had originally requested). And it wants to allow “reciprocal” use of its campus for parking.

These operational changes will be accompanied by construction of five new buildings starting at the second stage of Norwood’s plan, as well as additional parking, entrance signage, sidewalk improvements, and internal driveway adjustments. Each phase of development, except the first, will depend on the successful completion of the prior phase and, as Mr. Ewing acknowledged, on the school’s ability to raise funds.

The proposed physical changes are depicted on the site phasing plan (ex. 44(b)) shown on page 13.

New construction will almost double the amount of campus space occupied by buildings. Existing building coverage is 60,000 sq. ft. Ex. 44(a) (chart). When all proposed construction is complete, coverage will be almost 114,000 sq. ft. *Id.* Even so, buildings will occupy only 6.9% of campus land (as opposed to 3.6% now). *Id.*

The new buildings are set well back from street frontages and neighboring property lines. All meet Zoning Ordinance setback minima (see below). Setbacks from River Road range from 472' to 778', except for the maintenance building which will be 194' back. Ex. 25(m). For the most part, the buildings will be well over 200 feet from adjacent property lines, with three exceptions. The performing arts center will be 141' from the Daskalakis property to the north and the natatorium will be 186' back from the same property. The building closest to a property line, the maintenance building, will be located 121' from the Campitelli property to the west. *Id.* Exhibit 25(m), showing the building setbacks, is reproduced on page 14.





## Site Phasing Plan



### Building Setbacks

As part of its transportation management plan, the school proposed to establish a community liaison committee in which the West Montgomery Citizens Association and other neighbors would be invited to participate; a County official would be an *ex officio* member. Ex. 25(yy) at 8-9. Under Norwood's proposal, the committee will meet four times a year unless it agrees to meet less frequently. *Id.*

Both planning agencies recommend establishment of such a committee (renamed a "council") as a condition of approval but expand its authority to include

all “operating impacts and other issues of concern.” Ex. 35(c) at 2, ¶ 17; ex. 37 at 4 ¶ 18. Under their recommendations, the council would need to meet four times a year only in the first year and semi-annually thereafter. *Id.* Norwood would be obligated to file minutes with this Board describing all issues raised by community members and how they were resolved. Ex. 35(c) at 2, ¶ 17.

For reasons stated later in this report, I adopt Norwood’s proposal for quarterly council meetings, to last at least through the second year following completion of phase IV.

#### *A. Phase I.*

1. *Population.* Student population will remain at the current level but the summer camp will grow by ninety, from 560 to 650 participants. Ex. 25(d) Norwood’s student cap is defined as “the maximum number of individuals permitted on-site at any one time for education, recreation, community and other programs/facility rentals and also includes juvenile camp counselors (summer only).” Ex. 25(d) n. 3; ex. 25 (zz) at 6. The cap represents “the maximum program capacity for all activities on the Property, excluding Staff \* \* \* and special events.” *Id.*

Included within the cap will be students in a summer “Horizons” academic enrichment program for “underserved” public school students. Ex. 25(zz) at 7; T. 7/20 at 55 (Ewing). The program will begin with fifteen first-grade students who will return each year through the eighth grade. The program will expand a grade per year and grow to approximately 120 students when completely phased in. *Id.*

The staff will also increase by 25 to 160 adults during the school year and by twenty to 155 during the summer. Ex. 25(d). All staff – full-time, part-time, *and* independent contractors – will be included in future population counts to determine whether they exceed the proposed enlarged caps. T. 7/20 at 28, 48-49, 51-52 (Ewing); ex. 25(a) at 3. Included within the cap are teachers participating in the Horizons program. *Id.* at 55.

Volunteers, however, still will not be counted to determine if Norwood meets the caps. *Id.* at 51-52. Mr. Ewing avoided specifying how many volunteers there may be on any given day but there seem to be few. *Id.* at 52-53. A “couple of” parents may be volunteering in the library; four or five may be attending a committee meeting. *Id.* About four volunteer parents participate daily during the week-long book fair. *Id.* at 60-61. Special events aside, Ewing testified, at no time

“does the number of volunteers on campus exceed our ability in the parking spaces we have.” *Id.* at 52.

2. *Traffic.* Norwood has adopted a transportation management plan (TMP) that it agrees will govern traffic to and on the campus throughout the four stages of development and beyond. Ex. 25(yy).

The heart of the plan establishes a vehicle trip cap during morning and afternoon peak rush hours. Norwood’s cap will be 753 trips for the morning rush hour, 269 for the afternoon. *Id.* at 5. Norwood pledged “[t]hese authorized trip caps will not be exceeded in the future during any peak hour.” *Id.* The school plans to conduct annual morning and afternoon traffic counts and to provide results to the Planning Department and the community liaison council. *Id.* at 10. If the counts establish that Norwood is exceeding the caps, the school will conduct a second count within twenty days. *Id.* If that count still shows an excess, Norwood will convene an emergency meeting of the community liaison council. *Id.* (I propose more rigorous requirements in section IX of this report).

Norwood’s transportation plan also commits the school to “limit the total number of total adults (i.e. potential drivers on site to 90% of the available on-site parking (reserving the remaining 10% for unexpected visitors).” *Id.* at 1, 8; ex. 25(a) at 3-4. This commitment does not apply to four large-scale auxiliary events Norwood wishes to host annually. The plan also contains significant, but limited, school-related exceptions: performing arts center productions, school concerts, graduations, and parents/grandparents visiting days. *Id.* at 4.

To facilitate its commitment to keep peak-hour traffic at its current levels, Norwood intends to expand its two 14-passenger bus fleet to six by the end of phase IV. T. 7/20 at 39 (Ewing). Five buses will provide transportation for seventy students or campers. *Id.* at 40-41. One bus will be used only as a backup in case another breaks down although the school may consider other options to provide backup. *Id.* In phase I, parking lot restriping is designed to provide spaces for up to six buses. Ex. 25(yy) at 3.

Norwood does not anticipate making school-bus use mandatory and has not actively encouraged carpooling. T. 7/20 at 43, 45. Ewing deemed mandatory busing neither desirable nor necessary. *Id.* at 43. He believed parents value their time with their young children. *Id.* Cost may also deter participation in busing although the school underwrites busing costs to make it “financially available to more



parents.” *Id.* at 44-45. In Ewing’s view, Norwood’s modest busing program has been successful so far and “we’d like to grow it as an option.” *Id.* at 44.

Bus service will be available during summer camp, when arrival and departure times are more flexible than during the school year. *Id.* Although there may be as many 850 campers on campus at any one time by the time phase IV is completed, Ewing believed that the school could schedule activities so that school traffic will remain within the peak-hour cap. *Id.* at 46. Even if as many as 850 campers arrive on campus on a given day, that many would be present only during the middle of the day. *Id.* at 48.

Ewing expressed optimism that the school would be able to rent buses if its own small buses prove inadequate. T. 7/21 at 73-78. The school’s experience has been that, whenever it needed buses for an excursion, buses were available for lease. *Id.* at 75. Although the school typically contracts for buses in advance, Ewing thought the school would be able to lease a bus immediately for the rest of the school year if necessary. *Id.* at 76-77. He doubted more than one bus would be necessary because leased buses were substantially larger than those in the school fleet. *Id.* at 77. All leased buses will be stored off-campus. Ex. 25(a) at 5.

In addition to making more buses available in order to stay under the peak hour trip caps, Norwood intends to maintain the current staggered dismissal times of classes but leaves open the possibility that “times may change in the future, as conditions warrant.” Ex. 25 (yy) at 5.

Norwood’s intends to create two staff positions to assure compliance with its transportation management plan’s commitments: a school transportation coordinator and a director of auxiliary programs. Ex. 25(yy) at 7-8. The transportation coordinator is to be responsible for managing and implementing the transportation management plan. *Id.* The auxiliary program director is to evaluate new school programs and revenue events to ensure that parking needs do not exceed 90% of available hard-surface parking spaces. *Id.* at 8. For the four special events, when parking needs exceed supply, the director is to coordinate the use of grassy areas and or to reschedule “other programs around the special events, depending on the extent of the additional parking requirements.” *Id.*

At the time of the hearing, Norwood had appointed an interim transportation coordinator. T. 7/20 at 77. A permanent coordinator, Mr. Ewing testified, would be appointed by the beginning of the current school year. *Id.* at 77-78. There was no testimony about appointment of the auxiliary programs director.

The impact of Norwood's expansion on traffic is discussed in a later section of this report.

3. *School hours.* Although it is not changing class hours, Norwood wants to lengthen its overall operations by 1½ hours per day. The campus will open at 7:00 a.m. instead of 7:30. The earlier opening is intended to provide parents who work a "before-care program" option. T. 7/20 at 63-64 (Ewing); see ex 25(yy) at 5. Norwood wants to extend its later closing time by an hour, to 11. That additional hour is intended "to accommodate recreational and athletic activities" and "to allow sufficient time for people also to leave the premises." T. 7/20 at 64; see, similarly, *id.* at 65. Norwood's application proposed that closing times on weekends be extended to midnight. When both the Planning Board and Planning Department balked, the school acquiesced to a uniform closing time of 11 p.m. *Id.* at 27, 31.

4. *Other uses of the campus.* Norwood asks to be able to allow use of the campus for "auxiliary" activities unrelated to core school and camp programs, including four annual large-scale revenue events.

Aside from the four large events, the additional auxiliary events are vaguely described. Neither the documents filed by the school nor the testimony of its witnesses provide evidence of frequency, size, or times. See *e.g.*, 25(a) at 7 (statement of operations). The auxiliary programs include unspecified "community accessible after[-]school enrichment classes, educational, community, indoor/outdoor recreation, tutoring, college entrance exam prep courses, and art education classes, and winter-break and spring-break enrichment programs." Ex. 25(zz) at 6; see *id.* at 7. Implicitly, these programs (other than the school breaks) are subject to the commitment in Norwood's transportation management plan that "[e]vening classes will not begin before 7:00 p.m. \* \* \*." Ex. 25(yy) at 5.

Phil Perrine, a civil engineer, whom Norwood called as an expert in land-planning, testified that these auxiliary programs will not alter the essential nature of campus use: driving in; parking; walking to a building; engaging in an activity inside a building. T. 7/20 at 152. "[I]n other words, there's nothing different about [these] activit[ies] than the school's use of the property." *Id.* That is true, Perrine said, even for programs the effects of which the Planning Department labeled as not inherent in private educational institutions. *Id.* at 153-154.

Norwood provided more detail about the four "large scale" community events. As noted, Norwood originally proposed seven such events but now acquiesces to

planning agency recommendations that no more than four occur per year. Ex. 35(c). at 2, # 10; ex. 37 at 3, # 10; T. 7/20 at 71 (Ewing); *id.* at 30-31.

Mr. Ewing anticipated that one community event would be to provide parking and shuttle bus service for a major golf tournament at Congressional Golf Club or Avenal Golf Club sometime in the summer. *Id.* at 71, 72-73. It would not bring a high concentration of people to the campus but “many hundreds of people . . . might go through.” *Id.* at 71. He conceded it might be necessary to close the summer camp for a day or two to accommodate cars and passengers but opposed including a condition *requiring* Norwood to close. *Id.* at 73. The school, he testified, should be allowed to exercise its best judgment and will cooperate with county authorities in solving traffic problems. *Id.* at 74-75.

Ewing identified two other possible large-scale community events. One would make the school’s indoor athletic space available for a Cancer Walk-a-Thon in inclement weather. *Id.* at 71-72, 76. That event could attract more than a thousand people. *Id.* at 72, 76-77. The other event could be a book fair. *Id.* at 72. It, too, would attract over a thousand people over the course of a day or a weekend. *Id.* It is not clear how this book fair differs from previous book fairs, if at all.

Parking needs for these revenue events would be met on driveways and grassy areas adjacent to them, according to Ewing. *Id.* at 78. Norwood has used those areas in the past on parents’ and grandparents’ visiting days. *Id.* at 78-79. There was no testimony about how many cars the campus can accommodate.

In addition to these various auxiliary activities, Norwood wants to use its campus as an off-site parking facility, using “reciprocal agreements” with nearby schools and other institutions, when those institutions have overflows. Ex. 25(a) at 8-9; ex. 25(yy) at 11. When I asked exactly what Norwood had in mind, Mr. Ewing testified that, “essentially,” these agreements would involve only the four annual authorized revenue events. T. 7/20 at 79, 81. He contemplated there might be other circumstances when reciprocity would be a “neighborly and appropriate thing to do.” *Id.* The school would not, he said, oppose the Board’s placing restrictions on such reciprocal arrangements. *Id.* at 82, 85.

5. *Physical changes.* The first phase will see no major construction. The school will add a “sustainability garden.” According to Norwood’s architect, the sustainability garden will occupy 6000 sq. ft. and will be built into the side of a hill in front of the present gymnasium, where children can exercise their gardening





T. 7/20 at 21. As noted above, Norwood expects to convert an existing house near Bradley Boulevard, previously home for a principal, into a home for a resident manager and into non-residential functions. Norwood will also request permission to paint a pedestrian crosswalk at the intersection of River Road and the Norwood/Congressional Country Club driveway entrances, an intersection governed by a traffic signal. T. 7/21 at 69 (Hedberg).

### B. *Phase II.*

1. *Population growth.* In phase II student enrollment will grow from 560 to 600 and summer camp enrollment will increase by another 125 campers, to 775. Ex. 25(d). The school has not yet decided whether to use the school-year enrollment increase to establish a previously approved pre-kindergarten program or to enlarge class sizes. T. 7/20 at 27, 54-55.

Staffing levels will grow to 180, twenty more than in phase I, 45 more than currently allowed during the school year. See ex. 25(d). Altogether, a total of 780 children and adults will occupy the campus during the school year, 955 in the summer. See *id.*

2. *Physical changes.* Phase II features construction of a new lower school classroom building and a utility building for storage and maintenance. Ex. 25(a) at 10; T. 7/20 at 22. Construction will eliminate seven parking spaces, leaving 202 for cars and six for the school buses. Ex. 25(a) at 11.

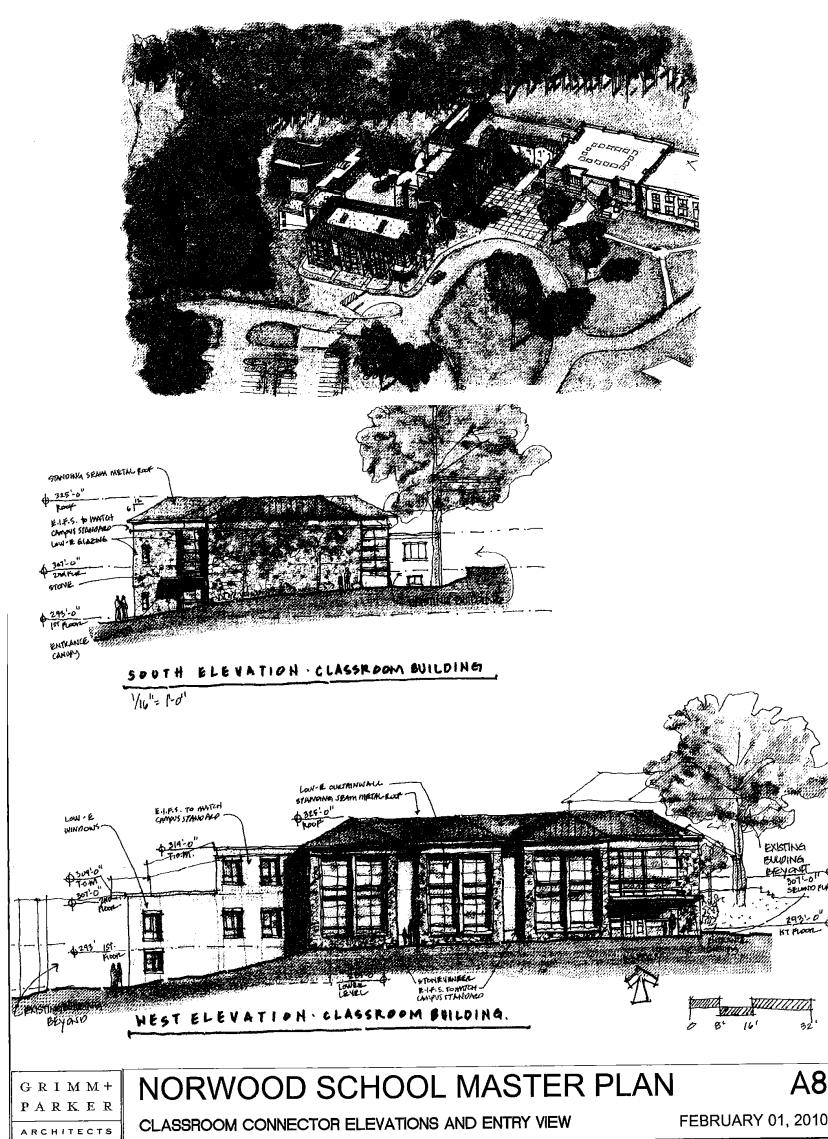
Phase II construction will probably take about three years to complete. T. 7/20 at 36-37 (Ewing: “that’s not an unreasonable inference”). The pace will depend on Norwood’s ability to raise funds and to go through the standard design and contracting process. *Id.* at 36.

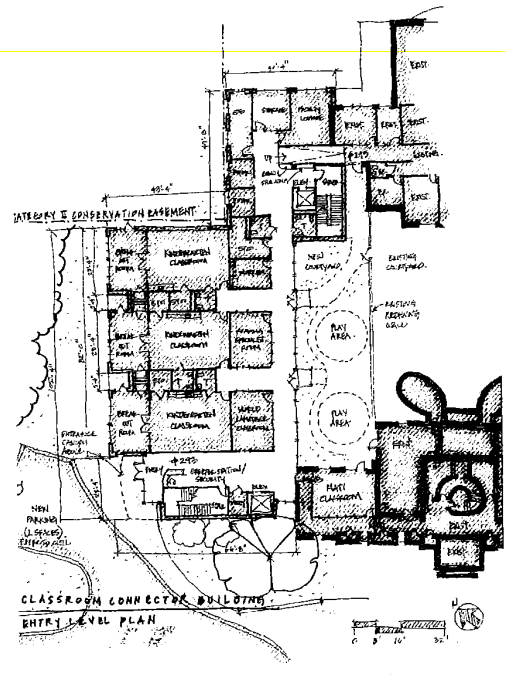
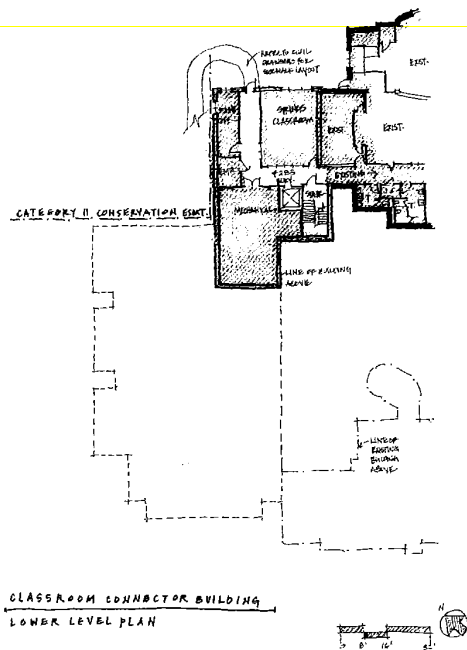
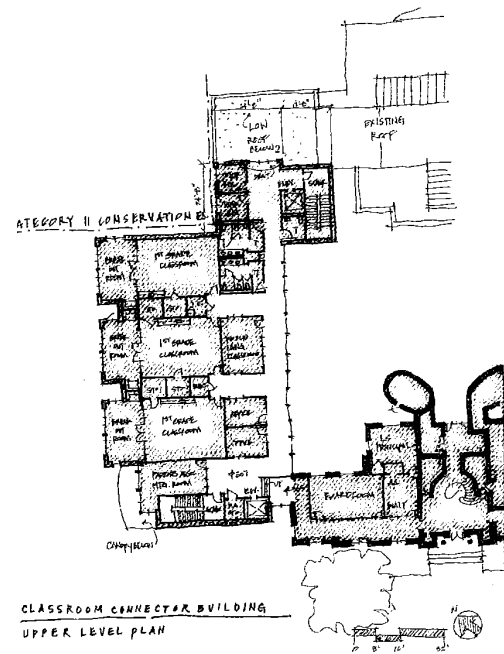
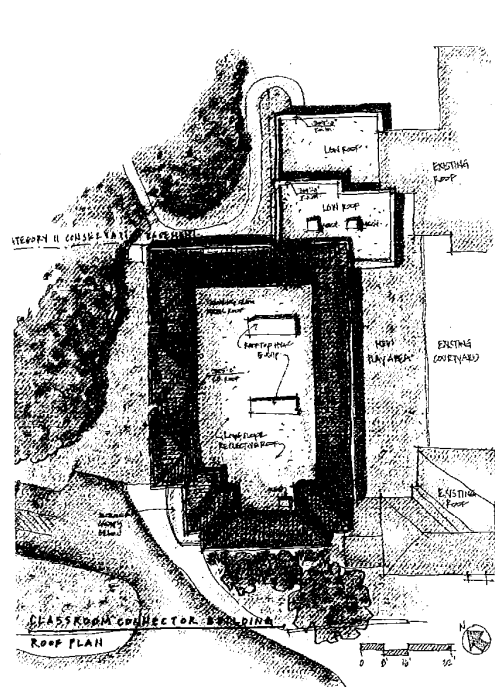
The largest construction project during phase II is a new two-story classroom building connecting two existing classroom buildings. Ex. 25(a) at 10; T. 7/20 at 22. The new building will be about 34' tall, 154' long, and 86' wide, occupying 17,600 sq. ft. Ex. 25(a) at 10. According to the architect, Stephen L. Parker, the building will allow mobility-impaired students and others access to the adjoining two buildings. T. 7/20 at 107.

Norwood’s statement of operations states that the building will consist of natural stone veneer “elements” over a masonry and steel structure, surmounted with a “green” roof that meets LEED (Leadership in Energy and Environmental Design) standards. Ex. 25(a) at 11. LEED ratings, from lowest to highest, are

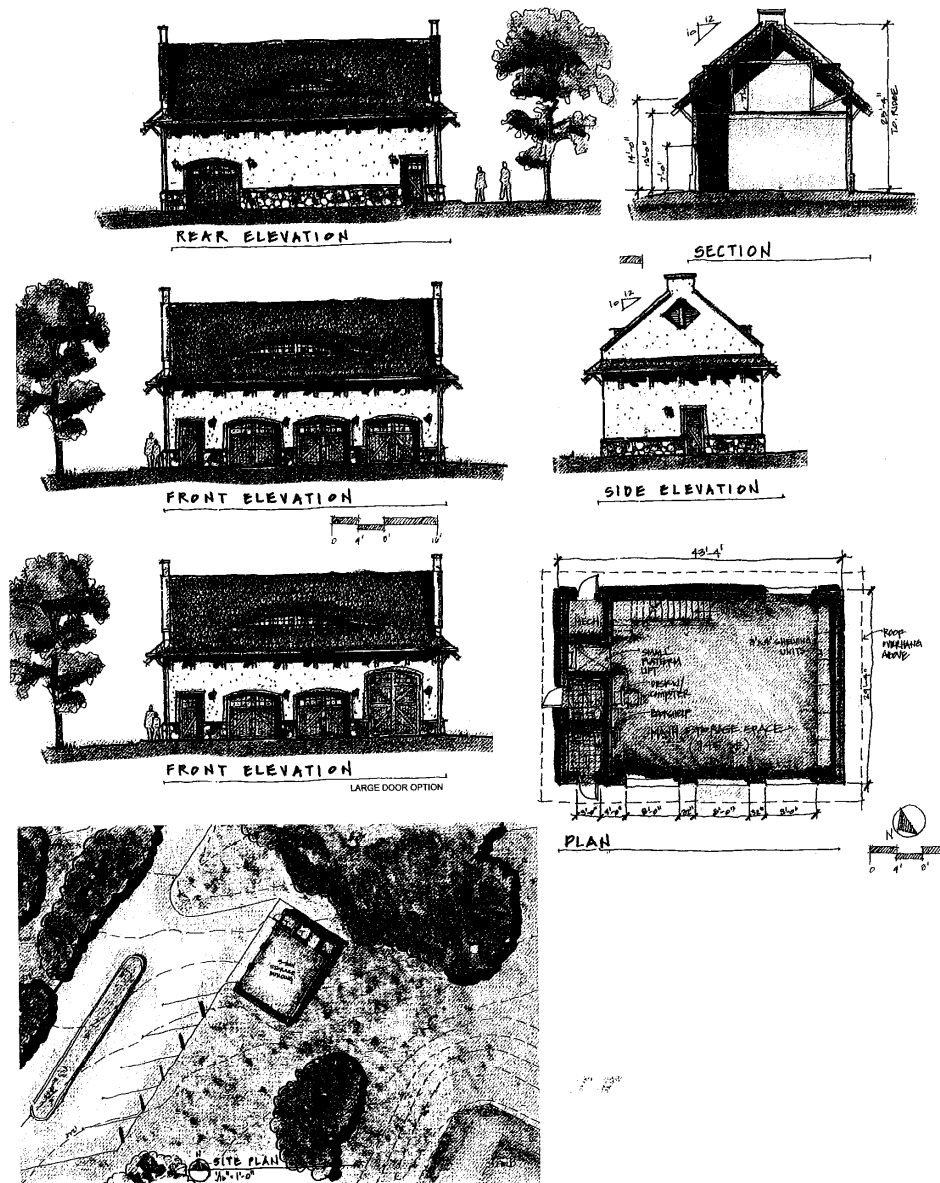
designated “certified,” “silver” “gold,” and “platinum.” T. 7/20 at 133 (Parker). Although the County does not require roofs to have LEED ratings, Parker testified, his firm designed all of Norwood’s new buildings to achieve at least a silver rating. T. 7/20 at 116. A silver rating exceeds current County standards. *Id.* at 134. If the county were to require vegetative roofs in the future, Parker said, the buildings could be redesigned without altering location, massing, or footprint, but perhaps lowering building heights slightly. *Id.* at 133-134, 135-136. Parker deemed the new building (and all others Norwood plans to erect) to be architecturally compatible with the neighborhood. *Id.* at 117, 121.

Conceptual drawings of the classroom building appear below and on page 28 (ex. 4(o), 4(p)).





The storage/maintenance building is to be constructed next to the western River Road driveway entrance. See ex. 44(b), reproduced above. The building has a carriage-house aspect with a “stucco-like” exterior, brick base, and shingled and gabled roof. T. 7/20 at 108 (Parker). The school’s statement of operations states that the building will be about 20' tall, 44' long, and 29' wide. Ex 25(a) at 10. Its various doors are to be “commercial-grade, decorative ‘carriage-house style.’” *Id.* Conceptual drawings of the maintenance building are reproduced here (ex. 4(r)).





Lighting will be added to parking lots, new buildings, and entry signs. Ex. 5(*l*), 25 (vv). New lighting will consist of pole-lights, wall-mounted “forward throw” area lights, square canopy lights, decorative wall-mounted lantern fixtures, and 42-inch bollards. Ex. 25(vv). Mr. Parker described the building lighting fixtures as “a sort of residential fixture type.” T. 7/20 at 120. New signposts at each driveway will be lit by ground-mounted accent spotlights. *Id.*

Parker testified that the new lighting meets Zoning Ordinance limits, casting no more than 0.1 foot-candle of light at the property line. T. 7/20 at 118-120, 124; see ex. 25(vv).

Norwood intends to create a combined bike/pedestrian path along River Road and to repair a deteriorated sidewalk along Bradley Boulevard during phase II. See ex. 43(a)-(c); T. 7/21 at 22-24. The existing River Road sidewalk will be widened to 8', separating pedestrians from bicycle traffic. Widening requires replanting some bushes closer toward the school. Norwood intends to supplement existing plants with ornamental trees. Ex. 43(a)-(b). The Bradley Boulevard sidewalk will be widened to 5' from 4.5'. Ex. 43(c). The Planning Board and Planning Department acquiesced in Norwood's request that the Bradley Boulevard sidewalk be resurfaced with asphalt. See ex. 35(b) at 2.

Signage piers will be erected at each school driveway entrance (two at the main River Road entrance, one at each other entrance) and new gates constructed well inside existing driveways. See ex. 44(c), (d),-(g). The piers will be 4' by 4' and 5½' tall. See ex. 4(s)<sup>2</sup>. Norwood intends to make internal driveway improvements, including extending sidewalks. Ex. 25(a) at 11.

Each building phase, starting with phase II, contemplates changes to storm-water management facilities. T. 7/21 at 23-26. The County gave preliminary storm-water management plan approval in May 2010. Ex.25(ddd); see ex. 25(*ll*)-(mm), (pp).

Stephen Goley, Norwood's civil engineering expert, testified that storm-water regulations could change before Norwood's buildings are completed but doubted there would be significant changes in the next five to seven years. T. 7/20 at 179. If there were, the County could choose to rescind its approval of the concept plan, new construction permits would become necessary, and further review would be required at the final plan phase. *Id.* at 180. Should redesign become necessary in

---

<sup>2</sup> Exhibit 4(s) does not reproduce clearly. It's incorporated in this report by reference.

order to meet revised storm-water regulations, approval by this Board will also be necessary. *Id.*

*C. Phase III.*

1. *Population growth.* Phase III will not change any phase II population caps for students, campers, or staff. Ex. 25(d).

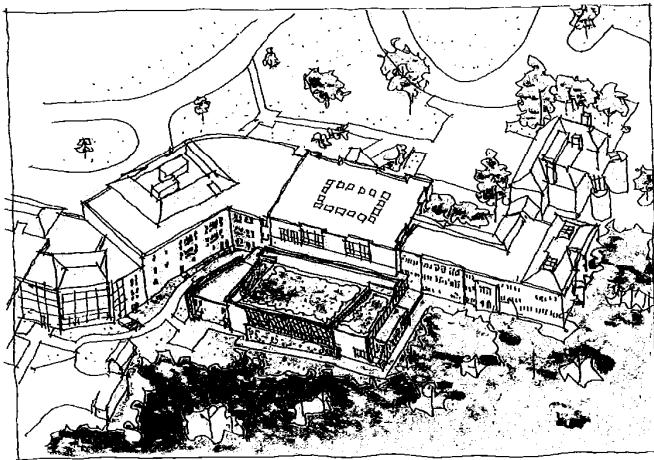
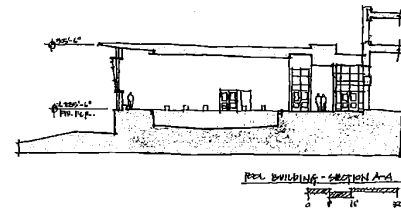
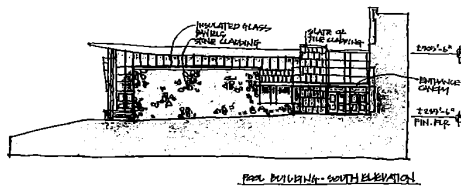
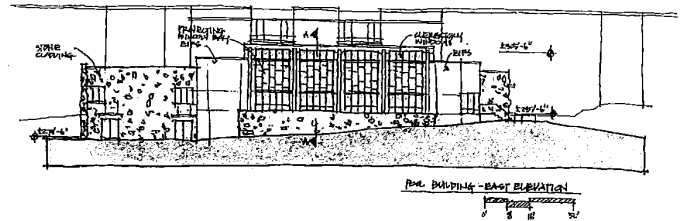
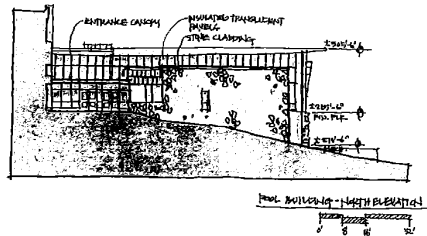
2. *Physical changes.* The largest phase III projects are construction of an indoor pool building and a 36-space surface parking lot. Ex. 25(a) at 11-12.

Phase III will not be completed for about six years, according to Ewing. T. 7/20 at 66. It will not begin until phase II is completed: “we need to complete phase two. We need to go out and fundraise for this project.” *Id.* at 36.

The new pool building will take up 9700 sq. ft., and be 134' long by 70' wide. Ex. 25(a) at 12. It will be 32' high, surmounted by a vegetative roof, and have natural stone veneer “elements”; one wall will primarily be of glass. *Id.*; T. 7/20 at 109 (Parker). It will be located directly east of the present middle-school building and north of the present gym. See ex. 44(b), reproduced above.

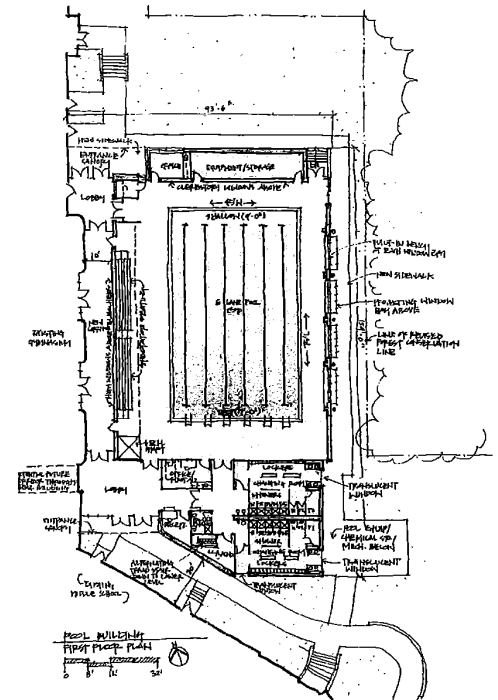
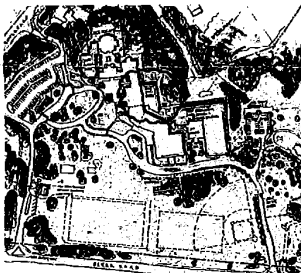
Conceptual drawings for the pool building are reproduced on the next page (ex. 25(uu)).

The new 36-space parking will be constructed at the eastern side of the campus near the existing middle-school gym. See ex. 44(b). When the lot is ready, Norwood will have 236 hard-surface parking spaces, including six school-bus spaces. See ex. 44(a), chart.



AERIAL VIEW OF NATATORIUM

KEY PLAN



GRIMM+  
PARKER  
ARCHITECTS

# NORWOOD SCHOOL MASTER PLAN

NATATORIUM FLOOR PLANS AND ELEVATIONS

A9

MAY 05, 2010

3. *Activities changes.* Once the pool building is ready for use, Norwood requests a change of opening and closing hours to allow pool use from 5:00 a.m. to 11:00 p.m. T. 7/20 at 30, 64, 66-67, 69 (Ewing). Pool capacity for adults swimming laps is twenty. Ex. 25(a). Mr. Ewing estimated that between twenty and forty adults and children (plus five pool employees) will use the building during the early hours. T. 7/20 at 68-69.

Norwood intends to open the pool for use by outsiders, not just students, campers, faculty, and other staff. *Id.* Access, Norwood proposes, will be limited only by the number of available parking spaces and by the peak-hour transportation caps. *Id.* at 69-70.

#### *D. Phase IV.*

The final phase of the current plan anticipates the construction of a 350-seat performing arts center over a 106-space underground parking garage. Phase IV will also include the final spurts in summer camp enrollment and in staff positions.

Completion of phase IV may take a decade, Mr. Ewing testified, but “I hope it’s not that long.” T. 7/20 at 38. The arts center is particularly expensive because of inclusion of the underground lot: “That’s going to be a major fundraising challenge.” *Id.* at 37.

1. *Population growth.* Camp enrollment will grow again, to 850; the school cap will not change. Ex. 25(d). Camp enrollment will be 52% larger than now. *Id.* Enrollment growth will spur staff increases. Summer camp staff will grow 20%, to 216 from 180, and be 60% above the current level. Ex. 25(d). Although there will no increase in school enrollment, Norwood will add another twenty employees to its school-year staff, bringing it to 200. *Id.*

Population spurts over the four phases are shown here:

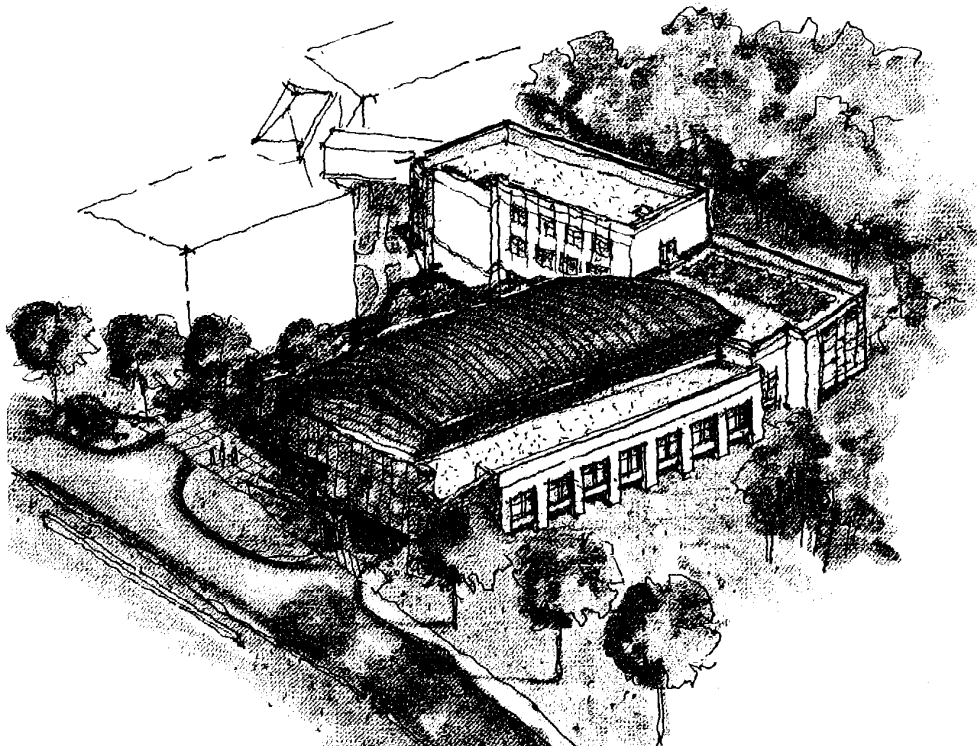
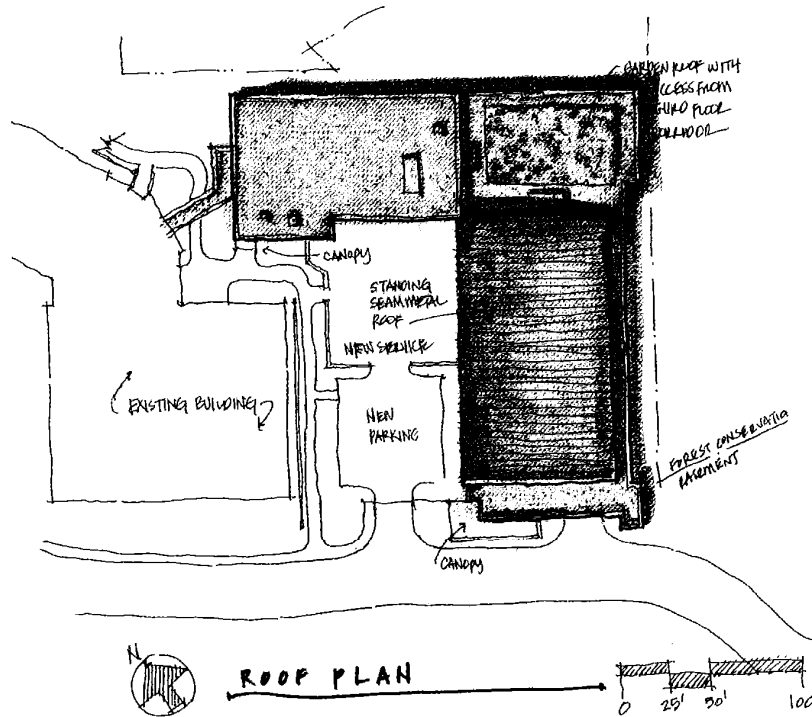
Phase	School		Summer Camp	
	Staff	Students	Staff	Campers
Current	145	560	135	560
I	160 (+15, 10.3% )	560 (no change)	155 (+20, 14.8%)	650 (+90, 16.1%)
II	180 (+35, 24.1%)	600 (+40, 7.1%)	180 (+35, 25.9%)	775 (+215, 38.3%)
III	180 (+35, 24.1%)	600 (+40, 7.1%)	180 (+35, 25.9%)	775 (+215, 38.3%)
IV	200 (+55, 37.9%)	600 (+40, 7.1%)	216 (+80, 60.0%)	850 (+290, 51.8%)
Total	800 (+95, 13.5%)		1066 (+371, 53.4%)	

2. *Physical changes.* The performing arts center will be an L-shaped structure consisting of a three-story classroom wing and a one-story theatre wing. Ex. 25(a) at 13; ex 4(j)-4(n). It will have a footprint of 55,418 sq. ft. (229' x 242') and a height of 44'. See *id.* Its second floor will have a pedestrian bridge linking it to the existing middle school classroom building. *Id.* It will be located east of the current gymnasium with the classroom wing extending north of the gym. See 44(b), reproduced above

Norwood's statement of operations describes the building as having "both steel framing and masonry bearing [walls] with natural stone veneer elements." Ex. 25(a) at 13. Part of the classroom section will have a flat, low-slope, vegetative roof; the theatre will have a curved metallic roof. *Id.*; see T. 7/20 at 114 (Parker).

The center will be constructed into the side of a small land-swell, allowing construction of the arts space to be built at grade, with space for a 106-space parking garage below. T. 7/20 at 110, 112 (Parker). Once the arts center is finished, Norwood will have 289 parking spaces, plus six for the bus fleet. T. 7/20 at 166.

The center will be the first building encountered when entering the campus along the main driveway from River Road. *Id.* Norwood's statement of operations describes it as "serv[ing] as a focal point" when seen from Norwood's main entrance. Ex. 25(a) at 13. The conceptual drawings of the proposed center and garage are reproduced on pages 30-32 (ex. 4(m), 4(n), 4(j)).



GRIMM+  
PARKER  
ARCHITECTS

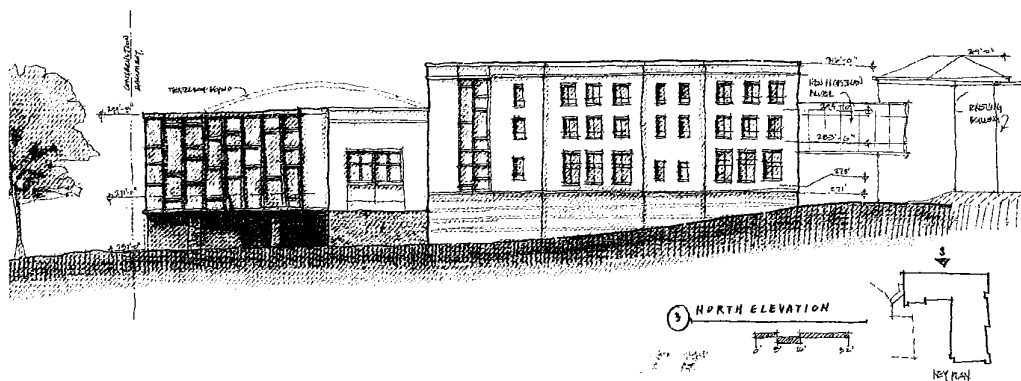
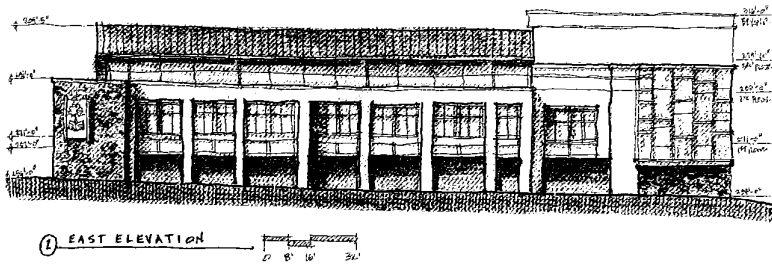
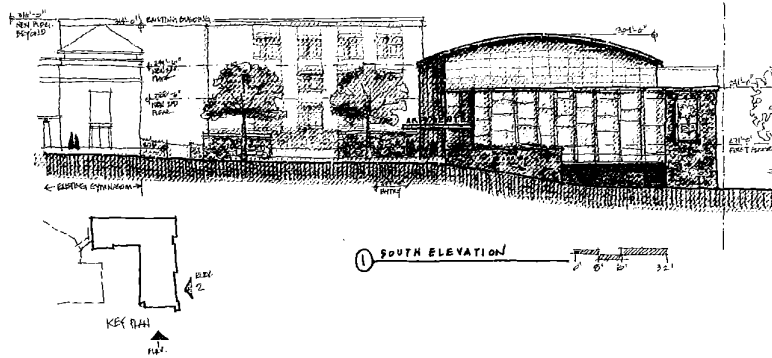
## NORWOOD SCHOOL MASTER PLAN

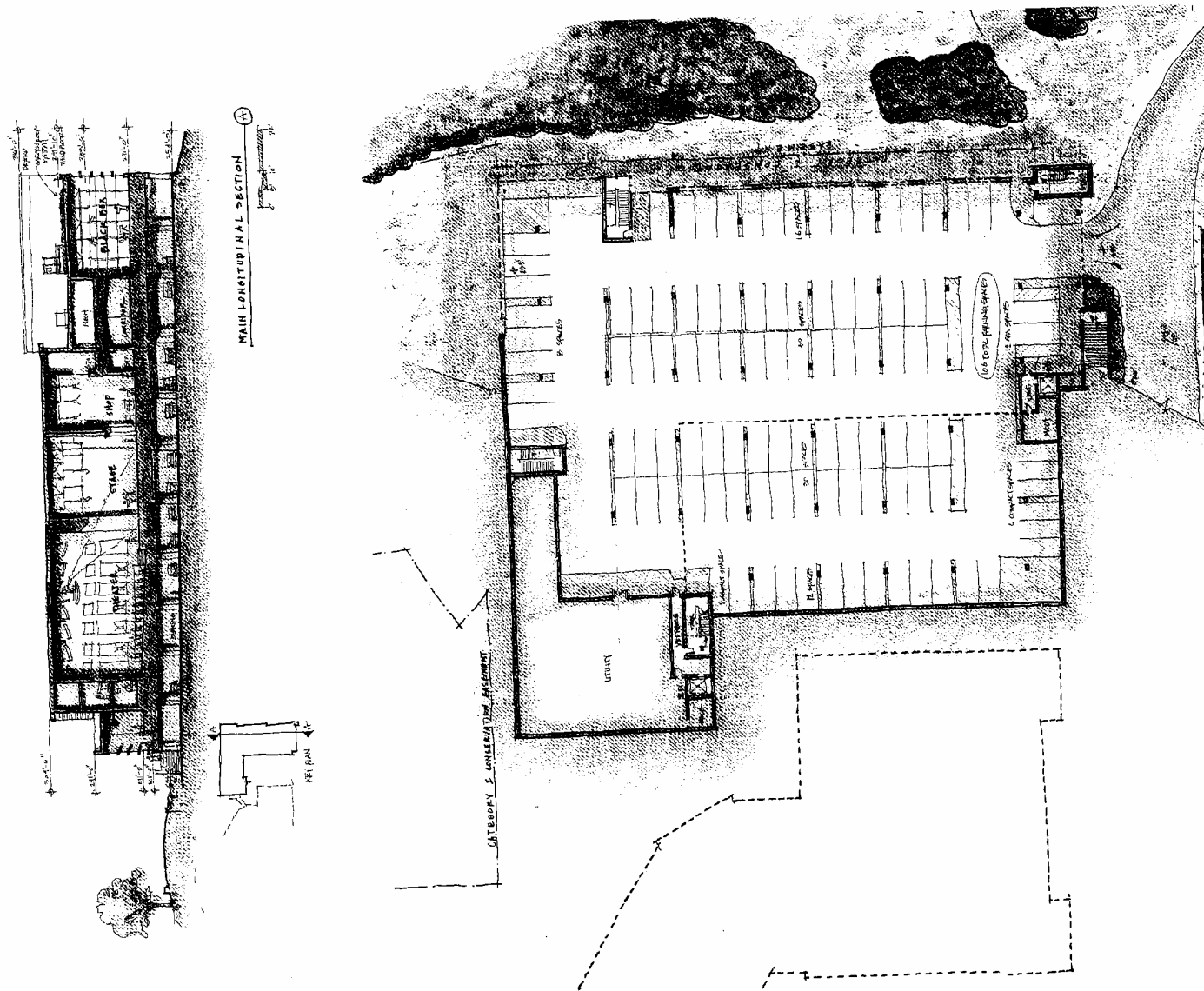
PERFORMING ARTS BUILDING ROOF PLAN AND AERIAL VIEW

A5

FEBRUARY 01, 2010







#### IV. ENVIRONMENTAL IMPACT.

Planning Department reports in the record conclude that Norwood's development will have no significant deleterious environmental impact. Ex. 36; ex. 37. The Department urges the Planning Board to approve Norwood's amendment to its 1998 forest conservation plan. Ex. 36; ex. 25(x)-(hh) (1998 plan); ex. 25(bbb)

(amendment). According to the environmental planning staff, the proposed changes “meet the requirements of the law [the County Forest Conservation Ordinance, M.C. Code Chap. 22A] and will also provide a more harmonious configuration.” Ex. 36 at 2.

The proposed amendment increases total conservation easements to 9.91 acres from 9.76 acres by replacing three small existing easement areas, totaling an acre, with three small new areas totaling 1.15 acres. Ex. 25(bbb). Present easements include 4.68 acres of environmental buffers. Ex. 37 at 15.

The Planning Department report states that northeast sections of the campus contain pockets of highly erodible soil. *Id.* The report does not warn that new construction will accelerate erosion. The property is not located in either a “special protection area” or “primary management area.” *Id.*

Stephen Tawes, Norwood’s landscape expert, testified that the current forest conservation plan will maintain three “category 1” conservation easements: behind the faculty lower school parking lot; to the east running from the music school to the proposed natatorium; and a small area, also to the east, adjacent to the neighboring Dockser property. T. 7/21 at 12-13. A “category 2” conservation easement exists directly behind the current music center. *Id.* A small section of the campus to the northeast is designated as “forest regeneration.” According to another Norwood witness, Phil Perrine, a land planner, the forest conservation areas nearest the new performing arts building is 190' deep. T.7/20 at 143. The forested areas, he testified, provide adequate buffering for the proposed uses. *Id.* at 156.

Norwood’s revised landscape plan anticipates additional evergreen screening near parking lots. See ex. 42(a)-(j). The overall plan (ex. 42(b)) is reproduced on page 34.



There will no new plantings north of the proposed arts center, Tawes testified. T. 7/21 at 25. That area, “a prominent feature,” is part of new storm water system “that precludes any large landscaping.” *Id.* at 25, 28. Tawes asserted that a conservation easement on the Daskalakis property will obscure views of the center from that property. *Id.* at 28.

## V. TRAFFIC IMPACT.

The Planning Department report concluded that Norwood’s expansion “will have no additional [traffic] impact” and will therefore meet both policy area mobility review (PAMR) and local area transportation review (LATR). Ex. 37 at 14; *id.* at \*33.

Norwood satisfies PAMR, the Department concluded, because of the school’s commitment not to exceed the peak-hour trips it had previously been authorized to generate: 753 in the morning, 269 in the afternoon. By remaining under the caps, the Norwood’s growth “will have no additional traffic impact.” *Id.* at \*33. With no additional trips, Norwood necessarily meets the 40% mitigation requirement of the Potomac PAMR. *Id.* at 14.

The same is true of the LATR for much the same reason. The Potomac policy area has a congestion standard of 1450 critical lane volumes (CVL). Ex. 37 at 13; [http://www.montgomeryplanning.org/research/growth\\_policy/growth\\_policy09/2009\\_2011\\_adequate\\_public\\_facilities\\_guidelines.shtm](http://www.montgomeryplanning.org/research/growth_policy/growth_policy09/2009_2011_adequate_public_facilities_guidelines.shtm). Traffic at the four River Road intersections the Department identified for analysis was well below the limit earlier this year. Ex. 25(xx) at (unn.) 6-7, 15; ex. 37 at 14; *id.* at \*31. Since the school has committed itself to generate no additional peak-hour traffic, all four of the intersections should remain below the 1450 CVL level. Ex. 37 at 14.

Norwood’s ability to meet its commitment to remain under the present peak-hour caps is uncertain, however. In February 2010, when Norwood’s traffic expert, Carl Hedberg, conducted his peak-hour survey, Norwood already generated 272 afternoon trips, three *above* the cap. Ex. 25(xx) at (unn.) 10-11; ex. 37 at 13. Morning traffic, while below the cap, was so only modestly, 25 trips or 3.3%. Ex. 25(xx) at (unn.) 9-10; ex. 37 at 13. The survey was taken on what Hedberg described as a “representative day.” T. 7/21 at 53.

At the time Hedberg conducted his survey, actual school enrollment was only 530, thirty students below the present allowable maximum and seventy below the

600-student enrollment cap that Norwood is requesting. See T. 7/20 at 67 (Hedberg). On that day, Norwood's staff of 145 was 55 fewer than it will grow to be. (In fact, according to Hedberg, the full-time staff at the time was only 93 (*id.*), but that obviously didn't include contractors and part-time employees).

Mr. Hedberg conducted no traffic survey in the summer. By phase IV, the total summer population (staff and campers) will be 1066, 471 more than the 595 ostensibly using the campus in February 2010.

Whether the school can keep traffic growth to zero necessarily depends on whether its proposed "mitigation measures" will be successful. Those measures include the expanded bus program, flexible scheduling of staff, encouragement of carpooling, appointment of the traffic coordinator, and establishment of the community liaison council. Ex. 37 at \*33-\*34; ex. 25(yy) at 6, 9; T. 7/21 at 39-41 (Hedberg). Mr. Hedberg insisted at the hearing that these voluntary measures will be adequate. T. 7/21 at 46-47. He suggested the school could also give incentives, providing carpoolers parking spaces closer to school buildings. *Id.* at 48, 56. He acknowledged that this would be a "limited incentive," considering how close all parking spaces are to school buildings. *Id.* at 48-49. He had discussed no other incentives with the school. *Id.* at 49.

If the mitigation measures are *unsuccessful*, Mr. Hedberg could come up with only two voluntary options: more staggered scheduling and a parking space lottery. T. 7/21 at 56, 58. If these two also failed and the school declined to institute mandatory busing and carpooling, Hedberg said, this Board would need to intervene. It could order a show cause hearing and "look at the activities that are being run." *Id.* at 56-57, 70. It could mandate busing or order a reduction in the number of campers, students, and staff. *Id.* at 71.

Based on Hedberg's testimony, at the end of this report, I recommend somewhat more stringent conditions for traffic than those the planning agencies found acceptable.

Because of Norwood's direct access to two major roads, little school traffic will use nearby residential streets. See ex. 25(aaa); T. 7/21 at 44 (Hedberg).

## **VI. MASTER PLAN.**

The Norwood campus is subject to the Potomac Subregion Master Plan (2002). The land-use map shows the site to be a "school/education facility" within an RE-2 zone.



Although the plan does not single out the site for special consideration, it recommends close scrutiny of traffic and parking related to private schools located along major corridors. The plan mandates that roads near Potomac –such as River Road and Bradley Boulevard – not be widened beyond two lanes.

The 2002 plan states in relevant part (at 35-36, reproduced in ex. 37 at \*23):

*●Limit the impacts of existing special exceptions in established neighborhoods. \* \* \**

*\* \* \**

*●Protect \* \* \* major transportation corridors, and residential communities from incompatible design of special exception uses.*

*●In the design and review of special exception uses, the following guidelines shall be followed, in addition to those stated for special exception uses in the Zoning Ordinance:*

*a. Adhere to Zoning Ordinance requirements to examine compatibility with the architecture of the adjoining neighborhood.*

*b. Parking should be located and landscaped to minimize commercial appearance. \* \* \*.*

*c. Efforts should be made to enhance or augment screening and buffering as viewed from abutting residential areas and major roadways.*

*There are a number of private educational institutions in the planning area and concerns have been raised about parking and traffic problems caused by queuing for drop-off and pick-up.*

Norwood's development plan is generally compatible with the master plan but it is plain that this Board must give special attention to the school's impact on traffic and to building design. Compatibility between the master plan and Norwood's development is discussed more fully below.

## **VII. PLANNING BOARD AND PLANNING DEPARTMENT RECOMMENDATIONS.**

As noted, both planning agencies recommend approval with conditions. Ex. 35(b); ex. 37.

### VIII. STATEMENT OF PROCEEDINGS.

Norwood submitted its petition for modification of the special exception on February 9, 2010. Ex. 1(a). This Board referred the petition to the Office of Zoning and Administrative Hearings (OZAH) and scheduled the hearing for June 7. The hearing dates were later changed to June 14 and 18 and then to June 28-29. See *id.*

On May 27, a letter from the West Montgomery County Citizens Association, signed by its president, requested postponement of the hearing until the autumn so that the Planning Department and the association could “address the perceived changing scope of the project.” Ex. 28. Counsel for Norwood filed an opposition. Ex. 29.

On June 17, I issued a notice postponing the hearings until July 20-21. Ex. 31.

OZAH received three letters in support of the petition before the hearing, one from Congressional Country Club, Inc. Ex. 22, 23, 27. Prior to asking for the postponement, the West Montgomery Civic Association had filed a letter opposing the petition. Ex. 22. The association did not appear at the hearing. Martin Klauber, then the Peoples’ Counsel, filed a notice of intention to participate. Ex. 21. His position was abolished before the hearing took place.

The hearing convened as scheduled and initially lasted 1½ days. Norwood filed its affidavit of posting at the start of the hearing. Ex. 38. Because one of Norwood’s witnesses had a scheduling conflict, the hearing was adjourned for his testimony until September 13. See ex. 45. The hearing concluded on that date. The record closed September 22.

On October 15, 2010, I extended the time for filing this report. Ex. 49. On November 24 I extended the time an additional two days.

## IX. SUMMARY OF TESTIMONY.

Seven witnesses, all called by Norwood, appeared at the hearings. The salient elements of their testimony are included in the preceding and following sections. Its repetition here serves no purpose other than redundancy and prolixity. In order, however, to make the summary available if a reader is interested, I've appended a summary of each witness's testimony as Appendix A to this report.

Mr. Ewing testified as a fact witness describing the Norwood's current operations and expansion plans. T. 7/20 at 12-89; T. 7/21 at 73-78. The other four witnesses were recognized as experts in their fields. Parker, the architect, testified about building design and compatibility between the new structures and the residential neighborhood. *Id.* at 90-134; T. 7/21 at 4-7. Perrine, a civil engineer, described the surrounding neighborhood and addressed the relevant Zoning Ordinance standards. T. 7/20 at 137-168. Goley, also a civil engineer, testified that the Planning Department had approved the school's storm-water management plan and that the campus has water and sewer access adequate for its planned development. *Id.* at 170-180. Tawes, an expert in landscape architecture, discussed the forest conservation plan, changes in conservation easements, and changes to bike-path greenery. He testified that the proposed changes would cause no adverse effects and would be compatible with the neighborhood. T. 7/21 at 8-29. Hedberg, an expert in transportation planning, testified about the LATR and PAMR analysis he had performed and about the effect of Norwood's transportation management plan. *Id.* at 31-73. Ryland L. Mitchell, III, an expert real estate appraiser, testified that Norwood's physical development would have no adverse effect on local residential real estate values. T. 9/13 at 4-21. His testimony is discussed below.

## **X. FINDINGS OF FACT AND ANALYSIS.**

### **A. SUMMARY.**

Weighing the record evidence under the “preponderance of the evidence” standard (§ 59-G-1.21), I find that Norwood’s development plan will successfully meet the general and specific requirements of the Zoning Ordinance so long as Norwood complies with all conditions contained in section XI of this report. Except where I state otherwise, I credit the factual testimony of its witnesses. I strongly doubt Mr. Hedberg’s predictive judgments. Of course, I’m not bound by Mr. Perrine’s conclusions as to compliance with the Ordinance.

Favoring Norwood’s application is the fact that its campus is large. It easily can accommodate the new buildings. They look attractive on paper. They are set reasonably back from neighboring residences and are far away from the major roads on which the campus fronts. Landscaping will soften their institutional bulk. The campus is also large enough to absorb the growth of enrollment and staff, both school and camp. Even at the end of phase IV, the population will be sparse relative to the level that the Ordinance considers presumptively too dense. See § 59-G-2.19(c). The size of the campus and its network of driveways should ensure that that there will seldom, if ever, be a need for cars to queue along County roads, a major worry of the master plan.

That said, there are disquieting elements in Norwood’s plan. Much depends on the school’s ability to keep peak-hour traffic at the current thresholds despite the growing population. The planning agencies were sufficiently skeptical that they recommended conditioning Norwood’s ability to proceed to the next phase on proof that it was still successfully operating within the peak-hour caps. The agencies also expanded the role of the community liaison council so as to ensure that the school, the neighborhood, and this Board are kept aware of increases in traffic and other possible adverse effects. I share the agencies’ doubts and believe the conditions relating to traffic should be strengthened in a number of ways: more frequent traffic counts; more rigorous enforcement; clearer consequences if Norwood exceeds the cap, including after completion of phase IV.

The auxiliary events also present possible problems. Surprisingly, the four large-scale events may not pose the greatest threat because they are limited to four days a year, too infrequent to disturb the neighborhood unduly. Possible harm may arise from the ill-defined smaller events. There was no descriptive testimony about them at the hearing and only vague references to them in the exhibits on file. The

planning agencies do not discuss them. I believe that adverse effects from these activities can be avoided if the school complies with its TMP by restricting auxiliary events to evenings after 7:00 p.m., consistent with Norwood's commitment to start "evening classes" before then, and by enforcing the 90%-of-spaces parking limit.

In light of vague contours of the auxiliary programs, I recommend broadening the Planning Board's recommendation that this Board retain jurisdiction indefinitely (ex. 35(c) at 2, # 9). Oversight should extend to all auxiliary and reciprocal parking programs, not simply to summer activities. Continued oversight and more rigorous conditions are particularly appropriate here, where full implementation of the development plan will not occur for a decade or more, large growth spurts come late in the four phases, and the performing arts center – a likely catalyst for auxiliary activity – is the last building to be constructed. While this Board has held that §§ 59-A-4.53(b)-(c) do not apply directly to *modifications* of special exceptions, these two subsections embody a legislative wariness of relatively remote implementations of development plans.<sup>3</sup> Neighborhoods change. Activities

---

<sup>3</sup> Sections 59-A-4.53(b) and (c) provide:

Duration of validity.

(b) Special exception.

(1) A decision of the Board, Hearing Examiner, or County Council approving the special exception is valid for 24 months.

(2) A special exception is not valid after 24 months if the use is not established or a building permit is not obtained and construction started within the period.

(c) Extension of time. The board may extend the time limit for a variance or special exception if the evidence of record establishes that drawing of architectural plans, preparation of the land, or other factors involved in the particular use will delay the start of construction or the establishment of the use beyond the period of validity. For a special exception, each extension must not exceed 12 months. If the Board grants an extension, the Board must set a date by which the erection or alteration of the building must be started or the use established.

At the hearing I questioned whether these sections applied directly here. Counsel for Norwood submitted a memorandum of law citing prior Board decisions to argue that §§ 59-A-4.53(b) and (c) do not apply to modifications of special exceptions. Ex. 46(a), citing ex. 46(e), Board Resolution, *Petition of the Bullis School, S-687-G* (June 27, 2007).

The Board need not revisit *Bullis* in this case. I am persuaded by Norwood's counsel's argument that, whether or not the subsections apply to modifications, they address "implementation of a petition after its approval, not whether the petition can be granted in the first place." Ex. 46(a) at 7; italics omitted.

Note, though, that in *Bullis*, a school case, the Board required the petitioner to file annual reports indefinitely so that the Board could assess the impact of the school's

that seem acceptable in 2010 may be far less so in 2020, especially if their frequency or size change. Continued Board jurisdiction will permit closer scrutiny than if neighbors or County agencies have to initiate Board review after damage has already been done.

## B. SCOPE OF REVIEW IN SPECIAL EXCEPTION MODIFICATION PROCEEDINGS.

Petitions to modify the terms or conditions of a special exception are ordinarily “limited to consideration of the modifications noted in the Board’s notice of public hearing and to \* \* \* discussion of the special exception use that are directly related to those proposals.” Sec. 59-G-1.3(c)(4). The focus of this report is therefore on the operational changes, not on the underlying special exception. Even apart from § 59-G-1.3(c)(4), that would be the proper focus here. It is population growth and new auxiliary programs that are most likely to generate adverse effects on the surrounding communities.

When a proposed modification expands the total floor area of all structures by more than 25% or 7500 square feet, whichever is less, the Board must also determine whether the structures, old and new, satisfy the requirements of § 59-G-1.26. Sec. 59-G-1.3(c)(4)(A). Each major Norwood addition – classroom connector, pool, performing arts center – is larger than 7500 sq. ft. Ex. 44(a) (chart). I therefore discuss the § 59-G-1.26 standards later in this report.

## C. GENERAL ZONING STANDARDS.

### 1. *Inherent and Non-inherent Adverse Effects.*

#### *§ 59-G-1.2 Conditions for Granting a Special Exception.*

*A special exception must not be granted without the findings required by this Article. In making these findings, the Board of Appeals, Hearing Examiner, or District Council, as the case may be, must consider the inherent and non-inherent adverse effects of the use on nearby properties and the general neighborhood at the proposed location, irrespective of adverse effects the use might have if established elsewhere in the zone. Inherent adverse effects are the physical and operational characteristics necessarily associated with the particular use, regardless of its physical size or scale of operations. Inherent adverse effects alone are not a sufficient basis for denial of a*

---

activities.

*special exception. Non-inherent adverse effects are physical and operational characteristics not necessarily associated with the particular use, or adverse effects created by unusual characteristics of the site. Non-inherent adverse effects, alone or in conjunction with inherent adverse effects, are a sufficient basis to deny a special exception.*

Analysis of inherent and non-inherent adverse effects begins with determining what physical and operational characteristics are necessarily associated with the special exception under consideration. Here, the special exception at issue is a “private educational institution” which the Zoning Ordinance defines this way (§ 59-A-2.1), irrelevant provisions omitted):

*Educational institution, private: Every private school or educational or training institution, however designated, which offers a program of college, professional, preparatory, high school, junior high, elementary, kindergarten, of nursery school instruction, or any combination thereof, or any program of trade, technical or artistic instruction. \* \* \**  
*A private education educational institution may include: (i) tutoring and college entrance exam preparatory courses, (ii) art education programs, (iii) artistic performances, (iv) indoor and outdoor recreation programs, or (v) summer day camps, which may serve individuals who are not enrolled as students in the institution’s academic program. \* \**  
*\* Any private educational institution granted a special exception before February 10, 1992 is a conforming use and may continue under the terms of the special exception as originally granted.*

Characteristics that are universal for all private school uses are inherent.. By definition, inherent adverse effects are *not* sufficient to justify denial of a petition.

Idiosyncratic physical *and operational* characteristics, including adverse effects created by unusual site conditions, are non-inherent adverse effects. Non-inherent effects must be analyzed in the context of the particular property at issue and of the general neighborhood to determine whether those effects are acceptable or would create adverse impacts sufficient to result in denial.

I agree with the Planning Department report’s listing of inherent physical and operational characteristics of a private school as including:



(1) buildings and structures, as well as outdoor areas for the children to play; (2) early and long hours of operation; (3) traffic to and from the site by the staff and parents; (4) deliveries of supplies and trash pick-up; (5) drop-off and pick-up areas for the students; and (6) noise from the children playing in the play areas.

While not mentioned by the Planning Department report, inherent characteristics also include (7) signage, (8) institutional lighting, (9) large parking lots and (10) such occasional school-related activities as graduations, parent-teachers meetings, student dances, family visiting days, evening student theatrical or musical performances.

The definition section of a private educational institution, as well as § 52-G-2.19(c), list activities that schools may engage in that may serve individuals who are not enrolled in the institutions, including tutoring and college entrance examination preparatory courses; art education programs; artistic performances, indoor and outdoor recreation programs; and summer day camps. While many schools typically run these activities, § 59-G-2.19(c) requires specific findings that these activities, when combined with “other [academic?] activities” will not have adverse effects on the surrounding neighborhood because of traffic, or “intensity, frequency, or duration,” among other things. The legislature apparently considered these activities to be problematic and to be closely examined.

Norwood intends to engage in all of the activities listed in the definition and in § 2.19(c). From all that appears, these auxiliary programs are open to – and seemingly primarily intended for – children and adults who are not part of the normal student body.

1. The Planning Department identified the summer camp program as possibly creating non-inherent adverse effects because of its atypical size. Norwood already operates a summer camp program but intends to expand enrollment by 52% and camp staff by 60%. Most private schools in Montgomery County have summer camps. In an earlier special exception modification proceeding, the applicant there introduced evidence that 39 of 45 County private schools ran summer programs. Hearing Examiner Report, *In the Matter of the Federal Republic of Germany (German School)*, CBA-2684(C) at 117.

Typically, the Planning Department reports, summer camp enrollment is no larger than regular school enrollment; that’s not the case here. Here, the summer program will be 42% larger than the planned size of the regular school program.

The Department considered the disparity in size sufficiently aberrational to term it a “non-inherent characteristic.” Ex. 37 at 17.

Traffic attributable to the enlarged summer camp program is a potential source of adverse effects on the community unless tightly controlled. Norwood has agreed to prevent traffic from having such effects by keeping peak-hour traffic at current levels. I’m skeptical that it can do so unless it initiates some form of mandatory busing or car-pooling. I find the voluntary measures that Norwood’s transportation expert, Mr. Hedberg, came up with unconvincing. Nevertheless, Norwood should be allowed to demonstrate through actual experience that it can operate at current peak-hour traffic levels.

I therefore join the planning agencies in recommending approval of the modification with but with more rigorous traffic-related conditions than the planning agencies suggest. To assure that Norwood does not exceed current peak-hour traffic counts, traffic counts shall be taken at least *twice* a year, once during summer camp, once during the regular school year. Starting in phase III, when the camp population rises to 955 (including staff), and extending through at least the second year of phase IV, when the population is 1066, traffic counts shall be taken at least *three* times, twice during the summer and once during the school year. Each count should immediately be disclosed to the community liaison council and the Department of Planning.

Whenever a traffic count shows that peak-hour caps have been exceeded, Norwood should be required immediately to convene the community liaison council and to take measures to reduce school-related traffic. A second traffic count must be taken within twenty days. If traffic still exceeds the cap, Norwood should immediately initiate mandatory busing, car-pooling, population reductions, and/or scheduling changes until the school can demonstrate to the council, the Department, and ultimately this Board, that peak hour traffic has fallen to or below the caps.

2. Norwood’s swimming program is not an inherent part of a private education institution for two reasons. First, as the Planning Department notes, most educational institutions begin their days at 7 a.m. Ex. 37 at 17. Norwood requests that it be allowed to open its natatorium at 5:00 a.m. Second, Norwood intends to allow public access to the pool, including during the dawn hours. Although other private schools may have swimming pools that open before dawn and accept outsiders, Norwood presented no evidence to that effect. Norwood also

presented no evidence about how many outside adults it will allow to buy early-morning pool access. Norwood's statement of operations (ex. 25(a) at 5) states that the pool capacity for adults swimming laps is twenty (although there appear to be only six lap lanes). Mr. Ewing testified that he believed somewhere between twenty and forty patrons (inferentially including students or campers) would use the pool building at any one time, plus five pool staff.

Additional round-trip traffic by outside adults driving to and from the natatorium is a non-inherent effect that could adversely affect the neighborhood. These trips could generate noise on campus while neighbors are trying to sleep. Departures from the campus would add unnecessarily to morning peak-hour traffic. Relying on Mr. Ewing's testimony, it seems reasonable to limit access to the pool building to no more than twenty outside patrons between 5:00 and 7:00 a.m. Peak-hour traffic to and from the pool must, of course, be included in all traffic counts.

3. Norwood's use of the campus to stage four large-scale revenue events per year is plainly extraneous to its mission as a private education institution. These events will have non-inherent operational and physical effects. Section 59-G-2.19(c) of the Zoning Ordinance requires the Board to consider the cumulative impact of non-inherent activities and traditional school activities on the surrounding neighborhood.

The planning agencies concluded that four large-scale events would not have unacceptably adverse impacts on the community, considering the size of the campus, the "ample" paved parking, the expanse of unpaved areas able to accommodate parking, and an extensive driveway system capable of avoiding off-campus queuing. Ex. 37 at 18.

Based on the record evidence, the agencies' conclusions and recommendations appear to be justified. The school has been able to conduct large-scale school-related events, such as parent and grandparent days, without apparent adverse consequences. Since Norwood accepts the restriction that the revenue events be confined to no more than four times a year, the community is unlikely to be harmed. The planning agencies' recommended condition – accepted by Norwood – that revenue events be limited to only those four, is also fully justified by the master plan directive to "[l]imit the impacts of existing special exceptions in established neighborhoods."

The Planning Department, however, made the unwarranted assumption that the four revenue events would occur "outside of normal school operating times

during off-peak hours, such as after 7 p.m. during a weekday or on weekends when transportation demands are typically less.” Ex. 37 at 31; see *id.* at 18. That doesn’t seem to be the case. At least some anticipated events, such as use of the campus to provide parking and shuttle-bus service for major golf tournaments, will undoubtedly occur during the day on some weekdays. These large weekday events, if coupled with normal school or camp events, will necessarily burden campus resources and the local two-lane roads. Indeed, Mr. Ewing acknowledged that camp or school may need to be closed for some events.

Rather than recommending adoption of a condition that school or camp *must* close for each of the four major revenue events, I recommend that the Board retain jurisdiction of this case to impose such a condition if experience shows it is necessary. One function of the community liaison council should be to report to the Board whether such a restrictive condition needs to be adopted. Initially, however, the issue of whether to close the school or camp should be left to the Norwood administration with the understanding that it will cooperate fully with County authorities with regard to traffic, as Mr. Ewing promised in his testimony. T. 7/20 at 74-75.

4. In addition to the four major revenue events, Norwood proposes to run an indefinite number of smaller non-inherent activities on campus. As noted above, Norwood wants to permit “community accessible after[-]school enrichment classes, educational, community, indoor/outdoor recreation, tutoring, college entrance exam prep courses, and art education classes, and winter-break and spring-break enrichment programs.” Ex. 25(zz) at 6. This list is a minor paraphrasing of the Zoning Ordinance.

Unfortunately, Norwood has provided no information about the size, frequency, time, or duration of these programs. Ordinarily, failure to present essential information necessary for the Board (and hearing examiner) to make the factual findings required by the Zoning Ordinance means that an applicant has not borne its burden of proof “that the proposed use satisfies all applicable general and specific standards under this Article.” Sec. 59-G-1.21(c). Absent essential information, it becomes impossible to decide whether these activities and programs will have non-inherent adverse effects on the surrounding community.

Despite the absence of evidence, it’s preferable to give these activities tentative approval since they are listed in the Ordinance while also continuing this Board’s jurisdiction over them so that the Board can act promptly if actual

experience requires the programs to be scaled back. While they resemble and daytime activities peak-hour, they may attract older participants, including adults, many of whom can drive. In addition, actual experience may demonstrate that the activities, “in combination with other activities of the institution,” *will* have adverse consequences “due to “traffic, noise, lighting, or parking, or the *intensity, frequency, or duration* of the activities.” Sec. 59-G-2.19(c); italics added.

I recommend that a condition of approval expressly provide that no community-accessible after-school enrichment classes, educational, community, indoor/outdoor recreation, tutoring, college entrance exam prep courses, and art education classes be permitted to begin before 7:00 p.m. That’s consistent with Norwood’s transportation management plan that promised “[e]vening classes will not begin before 7:00 PM and will end prior to School closing.” Ex 25(yy) at 5. It should also temper any increase in peak-hour traffic.

I also recommend, consistent with Norwood’s general commitment to restrict parking, that no community-accessible programs be allowed to include more participants (including staff) than can be accommodated on 90% of Norwood’s hard-surface parking lots. That, too, is consistent with the transportation management plan.

As with the four major revenue events, I recommend that the Board retain jurisdiction to impose additional restrictions on such non-inherent auxiliary after-school activities if experience shows that such conditions are necessary. The school should provide at least semi-annual lists of these programs to the community liaison council, Planning Department, and this Board specifying at least the following information about each after-school “enrichment” program: average number of attendees (including staff), days and hours of operation, and length of program (months, weeks, or days). The community liaison council may require additional information. Armed with whatever information it deems necessary, the council will be able to report to the Board whether the Board should adopt additional conditions to curb adverse effects from these activities.

Norwood’s statement of operation states that it wants to conduct winter- and spring-break “enrichment programs” but presented no evidence as to what these programs entail. It’s reasonable to infer that they will take place when the campus is largely deserted by Norwood’s students on vacation. It’s possible that these will be revenue-producing activities principally for children who are not regular Norwood students.

Under the circumstances, one must assume that the school-break programs are non-inherent activities capable of spawning non-inherent effects. Despite the uncertainty surrounding these activities, it's possible to limit adverse effects by extending the school population limits to the winter and spring breaks. Since I agree with the planning agencies that the population limits (coupled with peak-hour traffic restrictions) adequately protect the community from adverse effects, there is no reason to believe that having as many children and adults on campus during winter and spring breaks as during the corresponding school year will produce different results. I therefore recommend the condition limiting the number of children and adults on campus expressly include winter and spring breaks. In addition, the winter and spring break programs should operate during normal day-school hours so as to assure that they do not create adverse effects different from those created by the regular school program.

5. The last of the non-inherent programs that Norwood requests permission to initiate is a reciprocal parking program with other nearby institutions. Using a school campus as a parking lot for other institutions is not an inherent component of private educational institution functions. Mr. Ewing's testimony about the parking program is sketchy. According to Ewing, "essentially" the reciprocal parking agreements will involve only the four annual authorized revenue events but he left open whether they might include an unspecified number of other events as well. T. 7/20 at 79, 81. Norwood introduced no other relevant evidence except Mr. Perrine's unsupported statement that he deemed six reciprocal parking occasions to be reasonable. T. 7/20 at 147. As noted above, Ewing said Norwood would accept restrictions on the program. *Id.* at 82, 85.

Some flexibility is permissible. Norwood may occasionally have hard surface parking available when school, camp, and "enrichment programs" are *not* in session. Allowing those parking spaces to be used only on such occasions should not create adverse non-inherent effects so long as they occur very sparingly.

I therefore recommend that Norwood may provide parking on a reciprocal basis no more than three times a year in addition to the four major revenue events. Any more than that will plainly defeat the purpose behind the planning agencies' recommendation to limit use of the campus for non-inherent activities. Parking on these three occasions cannot occur on days when school or camp is in session and may not occur on evenings when other events are planned. Parking will be limited to the number of hard-surface lots then existing. No parking is to be permitted on driveways or non-impervious surfaces. These restrictions will ensure that the



neighborhood not be flooded with traffic having nothing to do with the functions of a private educational institution. It will also be further the master plan's directive to guard against the intensification of special exception uses.

**2. §59-G-1.21 General Conditions.**

*(a) A special exception may be granted when the Board, the Hearing Examiner, or the District Council, as the case may be, finds from a preponderance of the evidence of record that the proposed use:*

*(1) Is a permissible special exception in the zone.*

A private educational institution is permitted in the RE-2 zone.

*(2) Complies with the standards and requirements set forth for the use in Division 59-G-2. The fact that a proposed use complies with all specific standards and requirements to grant a special exception does not create a presumption that the use is compatible with nearby properties and, in itself, is not sufficient to require a special exception to be granted.*

The proposed use complies with the standards and requirements of §59-G-2.19, which are discussed below.

*(3) Will be consistent with the general plan for the physical development of the District, including any master plan adopted by the Commission. Any decision to grant or deny a special exception must be consistent with any recommendation in a master plan regarding the appropriateness of a special exception at a particular location. If the Planning Board or the Board's technical staff in its report on a special exception concludes that granting a particular special exception at a particular location would be inconsistent with the land use objectives of the applicable master plan, a decision to grant the special exception must include specific findings as to master plan consistency.*

As noted above, the 2002 master plan for the area does not make specific recommendations for the site. Although the plan expresses concern about the proliferation of educational institutions along major roads, Norwood existed in its present location more than thirty years before the current master plan was

formulated. The plan's maps recognize use of the campus as a school in an RE-2 district.

The plan does insist that institutional buildings maintain architectural compatibility with the surrounding community. The buildings Norwood hopes to construct are as compatible with the residential community as any large institutional structures are likely to be. They are situated well back from the roads, well designed, and of reasonable scale.

The master plan also expresses concern about queuing and parking at schools. Because of the size of Norwood's property and its internal road system, queuing is unlikely to be a problem during normal school and camp activities.

It is less evident that queuing will not occur at the four "large-scale" revenue events, when as many as 1000 people may attend. Norwood now has 209 parking spaces on campus; in ten years or so, it may have 289. Both are far less than necessary to accommodate 1000 visitors. Norwood intends to allow parking on lawns, playing fields, and driveways for those events in the areas designated in ex. 25(rr) and to provide shuttle-bus service to off-site venues. If experience shows that queuing nevertheless occurs, the revenue events will need to be reduced in size.

Provided Norwood complies with the conditions recommended in section XI of this report, I agree with the planning agencies that the proposed modifications to the special exceptions will be consistent with the master plan,

*(4) Will be in harmony with the general character of the neighborhood considering population density, design, scale and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions and number of similar uses. The Board or Hearing Examiner must consider whether the public facilities and services will be adequate to serve the proposed development under the Growth Policy standards in effect when the special exception application was submitted.*

The new construction is in harmony with the general character of the neighborhood. Although not residential, the new structures are reasonably scaled for their surroundings. They will be located well away from neighboring properties and from adjacent roads. Landscaping and forest conservation easements buffer views from residential neighbors.

Provided Norwood keeps tight control of its peak-hour traffic, the increase in normal on-campus population will not alter the general character of the neighborhood. Campus density remains at the low end – at most, 22 students per acre – a fourth of the 87 per acre the Zoning Ordinance regards as presumptively excessive.

Similarly, so long as peak-hour traffic does not exceed the caps, the proposed development meets the LATR and PAMR growth policy standards for the Potomac area. See [http://www.montgomeryplanning.org/research/growth-policy/growth\\_policy09/2009\\_2011\\_adequate\\_public\\_facilities\\_guidelines.shtm](http://www.montgomeryplanning.org/research/growth-policy/growth_policy09/2009_2011_adequate_public_facilities_guidelines.shtm).

*(5) Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

Norwood's normal daily activities should have no detrimental effect on the use or peaceful enjoyment of neighboring property. The 52% summer camp enrollment may undoubtedly increase noise from outdoor sports and play but scarcely enough to affect the peaceful enjoyment of neighboring property.

Much daytime and most evening activity will occur indoors. I credit Mr. Parker's testimony that the new buildings permit little noise leakage. While there was no evidence concerning the sound-proofing of existing buildings, there is little reason to believe that more intensive use of those buildings will affect the peaceful enjoyment of surrounding properties.

A condition of approval requires that the campus be completely vacated by 11 p.m. That should prevent nighttime disturbances. Addition of a condition that limits use of the pool before 7:00 a.m. to no more than twenty outside adults will reduce early-morning transportation and parking noise.

Norwood's expert real estate appraiser, Ryland Mitchell, demonstrated that residential property values near schools with recent construction activity continued to rise when market values in the metropolitan area were also rising. Ex. 17; ex. 46(g); T. 9/13 at 10-17. He was unable to show whether the rate of increase was at the same pace as the general market. He also did not demonstrate what the comparative trend would be in times of falling property values.

Despite the weakness of the evidence, it seems reasonable to conclude that school construction and more intensive activity at Norwood will not significantly affect home prices in the area, if at all. The absence of neighborhood opposition to Norwood's expansion plans implies that neighbors do not believe that Norwood's plans will have detrimental effects on the economic value of their property.

*(6) Will cause no objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

The changes in use will cause no objectionable vibrations, fumes, odors, dust, or physical activity. Most of the non-traffic related activity will occur indoors. During the summer, as many as 850 children may be playing outside during the course of the day but especially during mid-day. Still, the summer camp activities are not likely to cause objectionable noise because they will be dispersed over the large campus and, generally, some distance from immediate neighbors.

Norwood's photometric analysis (ex. 25(vv)) shows that illumination will meet County standards and not spill over to neighboring property. The planning agencies recommended a condition of approval that all building-mounted lights be configured so as to cast light downward only and that all other lights be shielded.

While I do not recommend additional restrictions on lighting, the school is encouraged to reduce lighting on the new buildings and lots to a minimum consistent with safety and security between 11:00 p.m. and 7:00 a.m. (5 a.m. for the pool building). Security lighting should, so far as possible, be activated by motion sensors.

*(7) Will not, when evaluated in conjunction with existing and approved special exceptions in any neighboring one-family residential area, increase the number, intensity, or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area. Special exception uses that are consistent with the recommendations of a master or sector plan do not alter the nature of an area.*

The Planning Department report states that only four special exceptions exist in the neighborhood out of about 230 properties altogether. Two of the special exceptions are small scale. The other two, Norwood and Congressional Country

Club, are large but do not overwhelm the residential area. Modifying Norwood's special exception to allow the requested construction and population growth should not adversely affect the neighborhood or alter its predominantly residential nature so long as Norwood complies with the recommended conditions.

*(8) Will not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

Nothing in the record suggests that the special exception modification will adversely affect the health, safety, security, morals or general welfare of residents, visitors, or workers.

*(9) Will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage and other public facilities.*

*(A) If the special exception use requires approval of a preliminary plan of subdivision, the Planning Board must determine the adequacy of public facilities at the time of subdivision review. In that case, approval of a preliminary plan of subdivision must be included as a condition of granting the special exception.*

*(B) If the special exception does not require approval of a preliminary plan of subdivision, the Board of Appeals must determine the adequacy of public facilities when it considers the special exception application. The Board must consider whether the available public facilities and services will be adequate to serve the proposed development under the Growth Management Policy standards in effect when the application was submitted.*

*(C) With regard to public roads, the Board or the Hearing Examiner must further find that the proposed development will not reduce the safety of vehicular or pedestrian traffic.*

The planning agencies concluded that approval of a preliminary plan of subdivision is required. Ex. 35(b) at 2; ex. 37 at 22 (replacement page). Since paragraph (A) applies, no finding by this Board under paragraph (B) is necessary.

Nevertheless, I credit the Department of Planning's and Perrine's assessments that public facilities, including a fire and rescue station one mile along River Road, will be adequate. Ex. 37 at 22; T. 7/20 at 158. I also credit Mr. Goley's testimony that the campus is adequately served by water and sewer service. T. 7/20 at 176.

The Department report found no evidence that the proposed use will reduce vehicular or pedestrian safety. Ex. 37 at 22. Nothing in the record calls the Department's finding into question.

*(b) Nothing in this Article relieves an applicant from complying with all requirements to obtain a building permit or any other approval required by law. The Board's finding of facts regarding public facilities does not bind any other agency or department which approves or licenses the project.*

This provision requires no finding.

*(c) The applicant for a special exception has the burden of proof to show that the proposed use satisfies all applicable general and specific standards under this Article. The burden includes the burden of going forward with the evidence, and the burden of persuasion on all questions of fact.*

Norwood has met its twin burdens of proof except barely with respect to the proposed auxiliary programs and reciprocal parking. That deficit is discussed above.

**3. Additional requirements, § 59-G-1.22.**

*(a) The Board, the Hearing Examiner, or the District Council, as the case may be, may supplement the specific requirements of this Article with any other requirements necessary to protect nearby properties and the general neighborhood.*

My recommended conditions are listed below.

*(b) Using guidance by the Planning Board, the Board, the Hearing Examiner, or the District Council, as the case may be, may require a special exception to comply with Division 59-D-3 if:*

*(1) The property is in a zone requiring site plan approval, or*

*(2) The property is not in a zone requiring site plan approval, but the Planning Board has indicated that site plan review is necessary to regulate the impact of the special exception on surrounding uses because of disparity in bulk or scale, the nature of the use, or other significant factors.*

No site plan approval is required in an RE-2 zone. In any event, Norwood has filed site plans that satisfy the subsection.

**4. General development standards, § 59-G-1.23.**

*(a) Development Standards. Special exceptions are subject to the development standards of the applicable zone where the special exception is located, except when the standard is specified in § G-1.23 or in § G-2.*

Special exceptions are subject to the development standards of the underlying zone. The following chart and footnotes, copied from the Planning Department report (ex. 37 at 23-24), establish that Norwood's plans meet RE-2 zone standards.

<b>Development Standards</b>	<b>Requirement</b>	<b>Provided</b>
Minimum Tract Area (§59-C-1.321(a))	Not applicable	1,659,636 sq. ft.
Lot Area (§59-C-1.322(a))	87,120 sq. ft.	1,659,636 sq. ft.
Lot Width (§59-C-1.322(b)): @ Front of Bldg Line  @ Street	150-feet  25-feet	±1,440 ft. (River Rd) ± 880 ft. (Bradley Blvd) ±1,840 ft (River Rd) ±1,070 ft. (Bradley Blvd)
Yard Requirements (main building): From Street (§59-C-1.323(a))  From Adjoining Lot Side Yards (§59-G-2.37(b)(3))  Rear Yard (§59-C-1.323(b))	50-feet  17-feet (one side)  35-feet (both sides) 35-feet	±472ft. (River Rd) ±240 ft. (Bradley Blvd) ±186 ft. (east) ±365 ft. (west) 551 <sup>4</sup> ft. ±141 ft.
Yard Requirements (accessory structure) (§59-C-1.326(a)(3)) (A) From Street (B) From Rear Yard (C) Side Yards	80-ft 10-ft 15-ft	(Carriage House) 194 ft N/A 121 ft.
Building Height (maximum) (§59-C-1.237)	50 ft.	50 ft.
Coverage (maximum net lot area) (§59-C-1.328)	25%	±6.6%
Density Requirements (total students per acre and sq. ft.) §59-G-2.19(a)(4)	87 students per ac	15 students/ac <sup>5</sup> 22 students/ac <sup>6</sup>

<sup>4</sup> Staff added the minimum east and west side yard setbacks, as there are several “side yards” that are in consideration. 551 ft is the most conservative side yard setback.

<sup>5</sup> Maximum proposed student enrollment during the school year.

<sup>6</sup> Maximum proposed student enrollment during the summer camp months.



*(b) Parking Requirements. Special Exceptions are subject to all relevant requirements of Article 59-E.*

Norwood will meet the relevant statutory parking requirement. The campus currently has 207 parking spaces spread over five lots; by the end of phase IV, it plans to have 289 spaces (plus six spaces reserved for the school's bus fleet) spread over eight lots. Ex. 25(yy) at 3. The largest increases will occur by the addition of a 36-space surface lot during phase III and the replacement of a 67-space surface lot by a 120-space garage under the performing arts center in phase IV. *Id.*

Section 59-E-3.7 of the Ordinance requires “[o]ne parking space for each employee, including teachers and administrators, plus sufficient off-street parking space for the safe and convenient loading and unloading of students, plus additional facilities for student parking.” Based on Norwood’s projected “employee” staffing during each phase, there will be sufficient parking to meet the one-employee/one-space during each phase of development: 209 spaces for 155 employee; 202 for 180; 238 for 180; and 289 for 216.

In the absence of statutory guidance about how to determine what constitutes “sufficient \* \* \* space for convenient loading and unloading of students,” the Planning Department concluded that 289 spaces are adequate in phase IV. The Department reached its conclusion by applying the one-to-six parking/loading ratio for a child daycare facility (§ 59-E-3.5) to Norwood’s estimate of maximum arrivals and departures. It is unclear whether this formula works for phase II when the number of available parking spaces drops. But it shouldn’t matter because the extensive internal driveway system can easily accommodate the short-term queuing associated with discharge and pick-up.

No parking is needed for students. They’re too young to drive legally.

*(c) Minimum Frontage. For the following special exceptions the Board may waive the requirement for a minimum frontage at the street line \* \* \*.*

Private educational institutions are not among the special exceptions covered by this subsection. Norwood’s plans satisfy the minimum frontage requirements for the RE-2 zone.

*(d) Forest conservation. If a special exception is subject to Chapter 22A, the Board must consider the preliminary forest conservation plan required by that Chapter when approving the*

*special exception application and must not approve a special exception that conflicts with the preliminary forest conservation plan.*

Norwood's special exception is subject to Chapter 22A. A forest conservation plan exists. Norwood has requested an amendment to that plan. The Planning Department's environmental planning section recommends that the Planning Board approve the amendment as well as a variance affecting five trees. The amendment will produce a tiny net gain – no loss – in forested areas. The special exception does not conflict with the proposed amendment which here constitutes the “preliminary” plan.

*(e) Water quality plan. If a special exception, approved by the Board, is inconsistent with an approved preliminary water quality plan, the applicant, before engaging in any land disturbance activities must submit and secure approval of a revised water quality plan that the Planning Board and department find is consistent with the approved special exception. [Remainder of subsection omitted].*

The property is not subject to a water quality plan. The subsection is therefore inapplicable.

*(f) Signs. The display of a sign must comply with Article 59-F.*

Norwood intends to erect 5½'-tall pillars displaying its name at driveway entrances from River Road and Bradley Boulevard. The Planning Department states that the proposed signage is typical for this type of institutional use. Ex. 37 at 26. The signage plan must be submitted for review to the Sign Review Board before Norwood may apply for building permits for the signs.

The signs will be illuminated by small ground-level spotlights. I recommend that these lights be extinguished between 11 p.m. and 7 a.m. (5 a.m. when the pool building is open) to make it clear that the campus is closed.

*(g) Building compatibility in residential zones. Any structure that is constructed, reconstructed or altered under a special exception in a residential zone must be well related to the surrounding area in its siting, landscaping, scale, bulk height, materials and textures, and must have a residential appearance where appropriate. Large building elevations must be divided*

*into distinct planes by wall offsets or architectural articulation to achieve compatible scale and massing.*

The conceptual floor plan and elevation sketches for all of the new buildings (reproduced above), show them to be well related to surrounding areas, nicely landscaped, divided into distinct planes and textures, and more than adequately fenestrated. None are above 50' tall. To my eyes, the buildings meet all subsection standards.

*(h) Lighting in residential zones. All outdoor lighting must be located, shielded, landscaped or otherwise buffered so that no direct light intrudes into an adjacent residential property. The following lighting standards must be met unless the Board requires different standards for a recreational facility or to improve public safety:*

- (1) Luminaries must incorporate a glare and spill light control device to minimize glare and light trespass.*
- (2) Lighting levels along the side and rear lot lines must not exceed 0.1 foot-candles.*

The calculations on the lighting exhibit (ex. 25 (vv)) reveal that lighting levels along the side and rear lot lines will not surpass Zoning Ordinance limits on light spillage. I join the Planning Board recommendation (ex. 35(c) at 4, # 19) that all building-mounted lights should cast light downward only and all other lights should be shielded.

As noted above, the spotlights illuminating the entry signs should be extinguished between 11 p.m. and 7 a.m. The school is encouraged to reduce lighting to a minimum between 11:00 p.m. and 7:00 a.m. (5 a.m. for the pool building). Security lighting should, so far as possible, be activated by motion sensors.

**5. § 59-G-1.26. Exterior appearance in residential zones.**

*A structure to be constructed, reconstructed or altered pursuant to a special exception in a residential zone must, whenever practicable, have the exterior appearance of a residential building of the type otherwise permitted and must have suitable landscaping, streetscaping, pedestrian circulation and screening consisting of planting or fencing whenever deemed necessary and to the extent*

*required by the Board, the Hearing Examiner or the District Council.  
Noise mitigation measures must be provided as necessary.*

Findings under this subsection are required because Norwood is expanding the total gross square area of its buildings by more than 7500 sq. ft. See § 59-G-1.3(c)(4)(A).

For reasons fully explained above and supplemented below, I find that Norwood's new buildings satisfy the standards in this subsection as to appearance, landscaping, streetscaping, and screening. Pedestrian circulation to, along, and within the campus is adequate or better. I am recommending a condition restricting traffic to and from the natatorium between 5:00 and 7:00 a.m. No other noise mitigation measure is necessary.

#### D. SPECIFIC ZONING STANDARDS.

##### ***Section 59-G-2.19 Educational Institution, Private***

*(a) Generally. A lot, tract or parcel of land may be allowed to be used for a private educational institution if the board finds that:*

*(1) The private educational institutional use will not constitute a nuisance because of traffic, number of students, noise, type of physical activity, or any other element which is incompatible with the environment and character of the surrounding neighborhood;*

Norwood's expansion will not constitute a nuisance. The campus is large; most of the activity is far from neighbors; the new buildings are constructed so as prevent noise leakage. New construction is surrounded by mature tree stands. The major new buildings and parking lots are at least 400' from the nearest residences (though some are closer to the property line).

Traffic on residential streets should see little or no increase because Norwood has direct access to two major roads. Of course, *if* the peak-hour trip caps are exceeded, traffic may back up and traffic noise may affect neighbors, especially those living along Bradley Boulevard. The peak-hour caps should prevent that from happening.

If the Board adopts the recommendations at the end of this report, neither school nor non-inherent activities should be incompatible with the environment or character of the surrounding neighborhood.

*(2) Except for buildings and additions completed, or for which a building permit has been obtained before [April 2, 2002], the private educational institution must be in a building architecturally compatible with other buildings in the surrounding neighborhood, and, if the private educational institution will be located on a lot, tract, or parcel of land of 2 acres or less, in either an undeveloped area or an area substantially developed with single-family homes, the exterior architecture of the building must be similar to a single-family home design, and at least comparable to any existing homes in the immediate neighborhood;*

Insofar as buildings can be judged from architectural concept sketches, Norwood's new structures appear to be compatible with other buildings in the neighborhood for the reasons stated above. The campus is far larger than two acres.

*(3) The private educational institution will not, in and of itself or in combination with other existing uses, affect adversely or change the present character or future development of the surrounding residential community; and*

There are few special exception uses in the neighborhood. Norwood's population growth and new construction will not adversely alter the character of the surrounding residential community and should not affect its future development. Extensive building set-backs help ensure that physical changes to the campus will not adversely affect the character of the residential community.

The recommended conditions contained in this report should obviate all otherwise adverse consequences arising from more intensive use of the campus. If the Board adopts those recommendations, it will continue to exercise jurisdiction over specific aspects of this case to ensure that additional conditions can be imposed promptly if necessary to protect the community.

*(4) The private educational institution must conform with the following standards in addition to the general development standards as specified in Section G.1.23:*

*(a) Density – The allowable number of pupils per acre permitted to occupy the premises at any one time must be specified by the Board considering the following factors:*

- 1) Traffic patterns, including:*
  - a.) Impact of increased traffic on residential streets;*
  - b.) Proximity to arterial roads and major highways;*
  - c.) Provision of measures for Transportation Demand Management as defined in Section 42A-21 of the Montgomery County Code;*
  - d.) Adequacy of drop-off and pick-up areas for all programs and events, including on-site stacking space and traffic control to effectively deter queues of waiting vehicles for spilling over onto adjacent streets; and*
- 2) Noise or type of physical activity;*
- 3) Character, percentage, and density of existing development and zoning in the community;*
- 4) Topography of the land to be used for the special exception;*
- 5) Density greater than 87 pupils per acre may be permitted only if the Board finds that (i) the program of instruction, special characteristics of students, or other circumstances justify reduced space and facility requirements; (ii) the additional density will not adversely affect adjacent properties; (ii) additional traffic generated by the additional density will not adversely affect the surrounding streets.*

The school and camp enrollment density is far below the number presumptively acceptable under subsection (a)(5). At the end of phase IV, there will be 22.3 campers and 15.7 students per acre. As Mr. Perrine's land-planning report points out, that's about half the number this Board permitted in 1974 when it allowed Norwood to enroll 250 students on an 8.6-acre campus. Ex. 25(zz) at 18, citing S-285 (Jan. 1974).

Buildings will occupy only about 7% of the land area and are centrally located, well away from neighboring residential properties. The land is rolling and forest conservation areas, as well as additional landscaping, shield neighboring property from most school activity. By and large, most outdoor play areas are

located near the River Road frontage, far away from residences. Considering the layout and topography of the campus, noise from daytime outdoor activity should not disturb neighbors.

Traffic could be a problem if Norwood fails to adhere to the conditions recommended in this report. Drop-off and pick-up areas are adequate for all programs and events. Off-site queuing should not be necessary, even for the four major revenue events Norwood has proposed. If queuing occurs for any such event, future events must be scaled back accordingly.

*(b) Buffer – All outdoor sports and recreation facilities must be located, landscaped or otherwise buffered so that the activities associated with the facilities will not constitute an intrusion into adjacent residential properties. The facility must be designed and sited to protect adjacent properties from noise, spill light, stray balls and other objectionable impacts by providing appropriate screening measures, such as sufficient setbacks, evergreen landscaping, solid fences and walls;*

Norwood's proposed development does not alter existing outdoor sport and recreation activities other than adding the sustainable garden. Both that garden and all new facilities are located well away from adjacent properties. The forested area of the campus will provide additional protection although, as the Planning Department report notes, most of the trees are deciduous. Ex. 37 at 30. The planning agencies have recommended that additional evergreens be planted near the new surface parking area. Ex. 35(c) at 3, # 16; ex 37 at 4, # 16. Norwood has acquiesced in that recommendation.

*(c) If a Private Educational Institution operates or allows its facilities by lease or other arrangement to be used for: (i) tutoring and college entrance exam preparatory courses, (ii) art education programs, (iii) artistic performances, (iv) indoor and outdoor recreation programs, or (v) summer day camps; the Board must find, in addition to the other required findings for the grant of a Private Education Institution special exception, that the activities, in combination with other activities of the institution, will not have an adverse effect on the surrounding neighborhood due to traffic, noise, lighting, or parking, or the intensity, frequency, or duration of activities. In evaluating traffic impacts on the community, the Board must take into*

*consideration the total cumulative number of expected car trips generated by the regular academic program and the after school or summer programs, whether or not the traffic exceeds the capacity of the road. A transportation management plan that identifies measures for reducing demand for road capacity must be approved by the Board.*

This section has already been extensively discussed in connection with § 59-G-1.2. As I commented there, Norwood's auxiliary activities, other than the summer camp cannot be thoroughly evaluated because Norwood presented little or no evidence with which to do so. I nevertheless recommend approval because I believe that the conditions recommended below should be adequate to prevent adverse effects on the surrounding neighborhood.

My findings are tentative, however, and I therefore recommend that the Board retain jurisdiction over this case and that it consider additional restrictions on these programs if the community liaison council or Planning Department recommends them.

*(d) Programs Existing before April 22, 2002.*

*(1) Where previously approved by the Board, a private educational institution may continue the operation of (i) tutoring and college entrance exam preparatory courses, (ii) art education programs, (iii) artistic performances, (iv) indoor and outdoor recreation programs, or (v) summer day camps, whether such programs include students or non-students of the school, if the number of participants and frequency of events for programs authorized in 59-G-2.19(b) are established in the Board's approval.*

*(2) Where not previously approved by the Board, such programs may continue until April 22, 2004. Before April 22, 2004, the underlying special exception must be modified to operate such programs, whether such programs include students or non-students of the school.*

The Board previously approved only the summer camp program. All other programs are being approved in this proceeding, with substantial conditions.



*(e) Site Plan.*

*(1) In addition to submitting such other information as may be required, an applicant shall submit with his application a site plan of proposed development. Such plan shall show the size and shape of the subject property, the location thereon of all buildings and structures, the area devoted to parking and recreation facilities, all access roads and drives, the topography and existing major vegetation features, the proposed grading, landscaping and screening plans and such other features necessary for the evaluation of the plan.*

Norwood's site plans (ex. 44(a)-(g)) and landscape plans (ex. 42(a)-(j)) satisfy the subsection standards.

*(2) No special exception, building permit or certificate of occupancy shall be granted or issued except in accordance with a site plan of development approved by the Board. In reviewing a proposed site plan of development the Board may condition its approval thereof on such amendments to the plan as shall be determined necessary by the Board to assure a compatible development which will have no adverse effect on the surrounding community, and which will meet all requirements of this chapter. Any departure from a site plan of development as finally approved by the Board shall be cause for revocation of the special exception, building permit or certificate of occupancy, in the manner provided by law.*

This case involves a petition to modify an existing special exception. Norwood has submitted a comprehensive set of plans that are more than sufficient to evaluate whether the modification should be granted. Norwood will be bound by the approved site plans. As the rest of the report makes clear, I find that the proposed physical changes to the campus will be compatible with the surrounding community.<sup>7</sup>

---

<sup>7</sup> The remaining provisions of § 59-G-2.59, which address schools located on church or government grounds or in former public schools or were authorized before the effective date of the Zoning Ordinance, are inapplicable in this case.

## **XI. RECOMMENDATIONS.**

I recommend that petitioner's "neighborhood" be defined to include all properties located adjacent to Fenway Road and Fenway Drive, as depicted in revised aerial photograph included in section II of this report.

I further recommend that the petition be granted subject to the following conditions.

1. All terms and conditions of the previously approved special exception shall remain in full force and effect, except as modified in this proceeding. Norwood's statement of operations and its special exception exhibits must be amended to include all changes required by these conditions.

2. Physical improvements are limited to those shown on the landscape and site plans including ex. 25(oo), ex. 42(a)-(j), ex. 44(a)-(g). New structures shall conform generally to those depicted on ex. 4(j)-(p), 4(r)-(s), 25(uu), 25 (ww).

3. All building-mounted lights should cast light downward only and all other lights should be shielded.

4. Lights illuminating signposts at entrances to the Norwood campus shall be extinguished between 11 p.m. and 7 a.m. Petitioner is encouraged to reduce lighting on buildings and lots authorized to be constructed in this proceeding to a minimum consistent with safety and security between 11:00 p.m. and 7:00 a.m. (5 a.m. for the pool building). Security lighting should, so far as possible, be activated by motion sensors.

5. Petitioner shall provide an eight-foot-wide shared use path along the Md. 190 frontage and a five-foot-wide asphalt pedestrian path along its Md. 191 frontage in accordance with ex. 43(a)-(c), subject to Maryland State Highway Administration review and approval. The shared use path and pedestrian path shall be constructed during Phase II.

6. Petitioner may establish a school resident manager's residence, office, and storage space in the existing single-family structure near the Bradley Boulevard entrance.

7. Petitioner shall provide additional native evergreen screening (e.g., American Holly) around the central parking area and the parking area adjacent to

the Head Master's residence. Screening provided in the forest conservation easements must be approved by the Planning Department's environmental inspector to verify location and species used.

8. Petitioner shall comply with the final County-approved forest conservation and final County-approved stormwater management plans.

9. Petitioner must file an amended preliminary plan of subdivision, at which time the APF test will be done.

10. No peak-hour trips generated by petitioner's operations may exceed 753 and 269 during morning and afternoon peak-hours, respectively. A monitoring system of traffic counts at the site must be submitted to the Planning Department who will forward a finding to the Board of Appeals stating whether the traffic cap has been maintained. Monitoring must include at least one traffic count on a representative day during the school year and one traffic count on a representative day during the summer camp season. In the two years following completion of phase IV of petitioner's development plan, there shall be two traffic counts during the summer camp season.

11. Petitioner must implement its transportation management plan (TMP), ex 25(yy). It must make a busing program available to children in both its school-year and summer program. No fewer than six petitioner-owned buses shall be included in the busing program by phase IV. All leased buses, if any, shall be stored off-campus.

12. No phase of development – either physical or operational – shall proceed until the Planning Department forwards a finding to the Board of Appeals stating that the morning and afternoon trip caps have been maintained and that petitioner has fully complied with the TMP.

13. Petitioner shall establish a community liaison council (CLC) to address operating impacts and other issues of concern to the community and/or petitioner. The CLC shall consist of petitioner's representative and representatives from any civic association or homeowners association within the neighborhood (as defined in this report) wishing to participate. Adjacent and confronting neighbors must also be invited to participate. A representative from the County shall be invited to participate as *ex officio*. Meetings must be held at least four times per year unless a majority of the CLC (not including petitioner's representative) votes to conduct fewer meetings. Minutes describing all issues raised by community representatives

or neighbors, and how they were resolved, must be kept by petitioner and filed with the Board of Appeals annually. Petitioner shall provide the CLC with all traffic counts conducted in accordance with conditions nos. 9 and 13.

14. Whenever a traffic count shows that a peak-hour cap has been exceeded, petitioner will convene the CLC within 7 days and take measures to reduce traffic volume. Petitioner shall take a second traffic count within 15 days of the first count. If the second count shows that traffic still exceeds the cap, petitioner shall immediately initiate compulsory car-pooling, compulsory busing, population reductions, or scheduling changes until petitioner can demonstrate to the Board of Appeals and the Planning Department that peak-hour traffic has fallen to or below the cap.

15. Hours of operation for any on-site activity are permitted from 7:00 a.m. until 11:00 p.m., seven days per week, with the exception of the natatorium (indoor pool), which may open at 5:00 a.m.

16. Access to the natatorium between 5:00 a.m. and 7a.m. shall be limited to regularly-enrolled Norwood students and campers, members of the school staff, and to no more than 20 others.

17. The following activities are permitted during the school year (generally August 31 – June 16): before care and pre-K - 8th grade school programs for Norwood students including the Mid-Atlantic Teacher's Institute (MATI). Also permitted are events and activities that are related to the operation of a private educational institution for the use of students enrolled during the school year, including school dances, secondary school placement fair, spring picnics, student/parent breakfasts and dinners, athletic banquet, silent auction, parents and grandparents visiting days, musical and theatrical performances, athletics, multicultural fair and other social activities for students, campers, or their parents.

18. Regular school year operations shall be limited to an enrollment of no more than 600 students. Staff, including part-time employees, Mid-Atlantic Teacher Institute personnel, contractors, and others (but excluding volunteers, visiting coaches and parents) shall not exceed 160 in phase I, 180 in phases II and III, and 200 in phase IV and beyond.

19. A summer program is permitted under the following conditions. The summer program must be conducted for no more than 10 weeks. Summer operations may include summer day and twilight camps, including before- and

after-care and recreational activities, and Horizons at Norwood. Enrollment in the summer programs is limited to 650 children in phase 1, 775 in phases II and III, and 850 in phase IV and beyond, including juvenile camp counselors and Horizon students. Staff, including part-time employees, Mid-Atlantic Teacher Institute personnel, contractors, and others (but excluding volunteers, visiting coaches and parents) shall not exceed 160 in phase I, 180 in phases II and III, and 200 in phase IV and beyond.

20. The Board of Appeals shall retain jurisdiction over the case until further notice to determine, based on an annual review, whether summer activities or auxiliary programs described in the following paragraphs are having an excessive adverse impact on the neighborhood. The CLC may report to the Board that additional conditions are necessary to curb adverse effects from the summer activities or from one or more of the activities described in conditions nos. 21, 22, 24, and 25.

21. Petitioner may conduct up to 4 large-scale events per year, including a Cancer Walk-A-Thon, parking for PGA tour events held at Congressional and Avenel Country Clubs, or similar activities. For purposes of the numerical limitation in the foregoing sentence, each day an activity occurs constitutes a separate “event”. Parking at the 4 events may be provided on petitioner’s parking lots or in areas designated on petitioner’s overflow parking plan, ex. 25(rr). No queuing on public roads is permitted. If queuing occurs for any such event, all future events must be scaled back accordingly.

22. Petitioner is authorized to conduct community accessible education, indoor/outdoor recreation, tutoring, college entrance exam prep courses, art education classes, and facility rentals for educational, community indoor/outdoor recreation, tutoring, college entrance exam prep courses, and art education uses, and other accessory uses encompassed under the Zoning Ordinance’s definition of a private education institution. The Performing Arts Center may be used for no more than 7 artistic performances, education presentations, and commencement exercises for users other than Norwood per calendar year. No activity listed in this paragraph may begin before 7 p.m. on any day when the regular school or summer camp programs (as described in conditions nos. 17 and 19) are in session. The parking provisions of the TMP shall apply. No parking is permitted on driveways or non-impervious surfaces.

23. Semi-annually, petitioner shall provide the Board of Appeals, CLC, and Planning Department with the following information about each activity conducted under authority of condition no. 22: average number of attendees (including staff), days and hours of operation, and length of each activity in terms of days, weeks, or months. The Board, CLC, or Department may require additional information.

24. Petitioner may conduct daytime winter and spring break programs when school is not in session during the school year. The population limits set forth in condition no. 18 shall apply. All activities shall start and end between the hours that regular school activities would start and end were school in regular session.

25. Petitioner may provide parking on its property to local schools and other institutions on a reciprocal basis no more than three times annually. For purposes of the numerical limitation in the foregoing sentence, each day an activity occurs constitutes a separate "time." The parking provisions of the TMP applicable to normal school and camp activities shall apply. No parking is permitted on driveways or non-impervious surfaces.

27. Petitioner must obtain and satisfy the requirements of all licenses and permits including, but not limited to, building, use, and occupancy permits, necessary to occupy the new structures authorized to be constructed as a result of this proceeding.

---

LUTZ ALEXANDER PRAGER  
*Hearing Examiner*

November 24, 2010